

1901-003 Chancery Causes: Adms. of Sarah S. Ely vs. Elizabeth J. Pennington &  
Lee Co. John Z. Ely & vs. J. Morison Smyth &

Folder 10/3

Trent, Travis, Parsons, Bartlett, Quillen, Lucas, Tharp, Greenwood, Cary,  
Olinger, Turner, Cole, Howard, Orr, Newman, Pugh, Lewis, Caywood,  
Farley, King, Doss, Maupin, Crider, Sargeant, Smith, Cooney, Carter, Johnson,  
Robbins, Collier, Boothe, Hughes, Bailey, Short, Mullins, Branson,  
Maloney, Cecil, Barker, Colley, Shuffelbarger, Flarary, Maxwell, Reason,  
Hobbs, Stewart, Moore, Harbor, Bowen, Weston, Muncy, Fletcher, Young,  
Skaggs, Gilley, Parks, Litton, Cox, Myers, Graham, Garrison, Nel,  
Simpson, Humphrey, Barron, Jones, Stanley, Barron, Munsey,  
Powells Valley Bank, Durcan, Quillen, Morgan, Kelly

-Deed

CA- Estate Dispute  
T- Property  
Transportation

Will: 1882 : Joseph W. Ely : Lee County



To the Hon. H. A. W. Skeen, judge of the Circuit Court for Lee County:

Humbly complaining, your orators, John Z. Ely and J. Morison Smyth, administrators of all and singular the goods and chattels, rights and credits, which were of Sarah S. Ely, deceased, at the time of her death, and who died intestate, respectfully represent unto your honor, that one Joseph N. Ely, a worthy citizen of this county, on the 11th. day of December, 1882 departed this life in this county, testate, a certified copy of whose will is here filed as a part of this bill, marked "W", and prayed to be taken as a part thereof; that his said will was duly probated in the County Court for Lee County, on the 19th. day of December, 1882; that as will be seen from an inspection of said will, said testator provided for the payment of all his just debts and funeral expenses, which was done, and the payment *to* William H. France the sum of \$500.00 "if living if not nothing"; that said France was not living at his death, nor did he die leaving descendants, and the remainder of his estate both real and personal he gave to his wife, Sarah S. Ely, and desired that she have sole use and control of it so long as she lived; and then after her death and all her just debts and funeral expenses were paid, he gave all of his estate at that time (meaning at the time of her death) one-third to his said wife's brother and sisters, or their descendants per stirpes, and the other two-thirds of his estate both real and personal to his own brothers and sisters per stirpes, naming them in each instance; that at the time of his death he owned in his own right two good farms situated in this county on the waters of Dry Branch, and personal property and choses in action amounting to some \$7000.00 or \$8000.00; that strange to *until recently, when St. J. Williamson sheriff was appointed as an administrator with the will annexed* say there was never under said will any administrator with the will annexed appointed, but the land, property, and choses in action were kept, used and controlled and money collected from the various debtors ~~xxx~~ by said Sarah S. Ely, your orators' decedent; that she so used and controlled the same until her death which took place on the *12<sup>th</sup>* day of April, 1900; that on her death, she, as well as her husband, dying childless and in old age, your orators were duly appointed as administrators of her estate by the county court for this county, and as such took charge of all her personal effects and choses in action, which amounts to something like *10252.17*, as will be seen from an inspection of the appraisement and sale bills, which are here *referred to* and as

*same by J. N. Ely and J. Morison Smyth*



a part of this bill and prayed to be taken as a part hereof, ~~marked "B"~~

As will be seen from an inspection of said Joseph N. Ely's will, your orators will further show, and represent unto your honor, that he gave one-third of his estate after the payment of his wife's debts and funeral expenses to be equally divided between America Graham, who <sup>is</sup> still living, and the heirs of Tobias S. Pennington, who are Mary P. Ely, (now the wife of your orator John Z. Ely), *who is a non-resident of this State*, Cynthia Myers, John H. Pennington and Sarah E. Myers, and the heirs of Virginia *+ who also are non residents of this State* Garrison, who are Thomas Garrison and Dalziel G. Simpson; that he gave the other two-thirds to his own ten brothers and sisters, each and all of whom are dead, but have descendants, as follows:

*a sister*  
(1) Jane Smyth, <sup>a</sup> died leaving eight children, to-wit:

- (1) Your orator J. Morison Smyth,
- (2) Elizabeth J. Pennington, a non-resident of this State
- (3) Sallie Trent, a non-resident of this State
- (4) Wm. Smyth, who also is dead leaving children, to-wit:
  - (1). John M. Smyth, a non-resident of this State,
  - (2). Alexander Smyth, a non-resident of this State
  - (3) Tennessee Smyth, a non-resident of this State

and eight other children, but whose names are unknown to your complainants. ( Since the bring of this suit the names of these children have been found to be, Davian J. Curry, America Combs, Jas. M. Smyth, Jessie M. Smyth, Amanda G. Shackelford; and Delina C. Lane, who is dead leaving four children, to-wit: Alice May, Henderson, Belle, and Cora Lane.

(5). Edward Smyth, who is also dead, but leaving 8 children, to-wit:

- (1). Rebecca J. Travis,
- (2). J. P. Smyth,
- (3) Mary F. Parsons, a non resident
- (4) Nervia O. Bartlett, a non resident
- (5). Wm. Smyth,
- (6) Martha Quillen,
- (7). Emily Lucas,
- (8). Sarah Tharp;



(6). David Smyth, who also is dead, but left 11 children, to-wit:

- (1). Sarah M. Greenwood, who is a non resident of this State,
- (2). John M. Smyth, Jr.
- (3). James D. Smyth,
- (4). Elbert M. Smyth,
- (5). Mary J. Parsons,
- (6). Mary A. Carey, who is a non-resident of this State,
- (7). David W. Smyth,
- (8). Donie E. Olinger,
- (9). Charles Smyth,
- (10). Laura R. Parsons, who is a non resident of this State, and
- (11). Alice Turner, who is also dead but left ~~and~~ living 2 Children:
  - (1). Luther S. Turner, and
  - (2). Wm. E. Turner *not named*

(7). James Smyth, who also is dead but left 4 children, to-wit:

- (1). Wm. Smyth, who is a non resident of this State,
- (2). Sarah Cole, who also is a non resident of this State,
- (3). Joseph L. Smyth, who also is a non resident of this State, and
- (4). Amanda Howard, who is dead, but left <sup>two</sup> children surviving her,  
but their names are unknown to your orators;

(8). Rebecca Orr, who also is dead, but left surviving her <sup>six</sup> ~~eight~~ children, to-wit

- (1). Sarah J. Parsons, who is a non-resident of this State,
- (2). John A. Orr,
- (3). W. T. Orr,
- (4). Emily Newman,
- (5). Peter H. Orr,
- (6). Dollie Pugh,

<sup>a sister</sup>  
(2). Rachael Jones, who also is dead but left children surviving as follows:

- (1). Sallie Turner, who is a non-resident of this State,
- (2). Fannie Lewis who also is a non-resident of this State,
- (3). Lou Annie Caywood, who is a non-resident of this State,
- (4). Emily Sargent, who is dead leaving children surviving her as follows:



~~4~~

- (1). Jane Farley, who is a non-resident of this State
- (2). Louisa King, who is also a non-resident of this State,
- (3). Rachael Doss, who is also a non-resident of this state,
- (4). Emily Maupin, who is a non-resident of this State,
- (5). Bettie Crider, who is a non-resident of this State,
- (6). Grant Sargent, who is a non-resident of this State, and
- (7). Mary Gaywood, who is a non-resident;

(3). Polley Smyth, <sup>a sister</sup> who is ~~dead~~, but left children surviving her as follows;

- (1). T.P. Smyth,
- (2). Sarah E. Cooney,
- (3) Mary Carter, and
- (4). Rebecca Johnson, who is dead also, but left children surviving as follows:

- (1). Joseph Johnson,
- (2). John Johnson,
- (3). Mary Robbins,

- (4) Jackson Johnson, who is a non-resident of this State,
- (5). Sarah Collier who is a non resident of this State,
- (6). Emily Turner, who is a non-resident of this State,
- (7). Vesta Boothe, who is also a nonresident of this State,
- (8). Gola Johnson, who is an infant ~~and non-resident~~,
- (9). Cora Johnson, who is an infant ~~and nonresident, and~~
- (10). Nancy Stanley, and <sup>not named</sup>
- (11). James Johnson, who is dead, but left surviving him as follows:

- (1). Fannie Johnson, who is an infant
- (2). Mollie ~~XXXXXXXXXX~~ Hughes, who is an infant,
- (3). Rebecca Johnson, who is an infant, and
- (4). Rosey Johnson, who is also an infant;

(5). Joseph E. Smyth, who is dead, but left surviving him children as follows:

- (1). Tennessee Smyth,
- (2). Sarah Mullins,
- (3). Rebecca Olinger,
- (4). America Bai~~X~~ley,
- (5). Emmett Smyth, who is an infant,



(6). Fannie Smyth, who is an infant,

(7). Flora Smyth, who is an infant,

(8). Joseph Smyth, who is an infant;

(6). Wm. O. Smyth, who is dead, but left children surviving him as follows:

(1). James M. Smyth who is an infant and non-resident,

(2). Cora Smyth, who is an infant and non-resident,

(3). Jackson Smyth, who is an infant and non-resident, and

(4) David Smyth, who is an infant and non-resident;

(7). Francis Parsons, who is dead, but left surviving her as follows:

(1). Emma Short, an infant

(2). Sherman Parsons, who is an infant,

(3). George Parsons, who is an infant, and

(8). America Doss, who is dead, but has one child surviving her, to; wit:

(1). Mary Doss;

(4). Elizabeth Branson, an other sister who died leaving the following children:

(1). Joseph Branson, a non-resident of this State,

(2). Henry Branson, who is a non-resident,

(3). Sampson Branson, who is a non-resident,

(4). Richard Branson, who is a non-resident,

(5). Louisa Colley, who is a non-resident,

(6). Sallie Parsons, *not named*

(7). Chandler Branson, who is dead leaving decendants, but their names are unknown to your orators,

(8) Fannie Howard, who is dead, leaving decendants, but their names are unknown to your orators; and

(9). Nimrod Branson, who is dead, leaving decendants but their names are unknown to your orators.

(5). Francis Bailey another sister, who is dead but left the following as heirs:

(1). Lucinda Parsons,

(2). Rebecca Maloney, who is a non-resident,

(3). H.C. Bailley,

(4). C.D. Bailley,



(5). John W. Bailley,

(6). Sallie Cecil,

(7). Jane Barker,

(8) Louisa Flanary, who is dead but left <sup>three</sup> ~~two~~ children surviving her:

(1). P. C. Flanary, who is a non-resident,

(2). Francis Maxwell, who is a non-resident,

(3). Lettie Shufflebarger.

*another sister of said testator*  
(6). Barbary Parsons, who died leaving decedents surviving her as follows:

(1). Elizabeth Parsons, who is a non-resident

(2). Susan Parsons, who is a non-resident,

(3). Jasper Parsons, who is a non-resident,

(4). Newton Parsons, who is a non-resident; and some other children, but their

names are unknown to your orators.

(7). Rebecca Reasor, another sister, who died with the following children surviving:

(1). D. S. Reasor,

(2). A. J. Reasor,

(3). Wallace Reasor,

(4). J. Green Reasor,

(5). Amanda Olinger,

(6). Fannie Collier, who is a non-resident,

(7). John Reasor, who is dead, but left the following <sup>g</sup> children surviving him:

(1). Minerva Humphrey, who is a non-resident

(2). Rebecca Barron, who is a non-resident,

(3). John Reasor, who is a non-resident,

(4). Peter Reasor, who is an infant and non-resident,

(5). Fannie Reasor, who is an infant and non-resident,

(6). Belle Reasor, who is an infant and non-resident, and

(7). Cass Reasor, who is an infant and non-resident

*(8) Oma Hobbs, who is dead leaving descendants, but their names are unknown*  
(8). Hiram Ely, another, who died leaving the following as descendants:

(1). J. Porter Ely,

(2). Isaac Ely,

(3). John Ely,



(4).George Ely,

(5).H.H.Ely,

(5).Rinda Smyth,who is dead,but left the following decendants:

(1).Jas.E.Smyth,

(2).Sarah Stewart,who is dead but left the folowing descendants:

(1).Floyd Stewart,

(2).Jas.A.Stewart,

(3).Simon Stewart,

(4).Lily Stewart,

(5).Emmett Stewart,who is an infant,

(6).Ballard Stewart,who is an infant,

(7) Laura Stewart,who is an infant,and

(3).Emily Moore,who is dead and left descendants,but your orators do  
not know their names.

(7).N.H.Ely,who is dead but left the following descendants:

(1).I.P.Ely,

(2).W.S.Ely,

(3).Hiram Ely,

(4).Amanda Ely,

(5).John B.Ely,

(6).Charley Ely,

(6).J.M.Ely,who is dead and left the following descendants:

(1).Loenard Ely, who is an infant,

(2).Maud Ely,who is an infant.

(8).W.H.Ely who is dead but left the following descendants:

(1).Sarah Ely,who is an infant,

(2).Dorah Ely,who is an infant,

(3).crocket Ely,who is an infant,

(4).Hiram Ely,who is a non-resident,

(5).Laura Harber,who is dead,but left descendants,whose names are unknown  
to your orators,and

(6).Elkanah Ely,who died,leaving descendants,but their names are unknown  
to your orators.



(9). Jackson Ely, who died leaving descendants as follows:

- (1). Sarah Smyth, who is a non-resident,
- (2). Minerva Bowen, who is a non-resident,
- (3). Lyde Turner, who is a non-resident,
- (4). George & Ann Ely, who is a non-resident,
- (5). Hiram Ely, who is a non-resident,
- (6). Jackson Ely, who is a non-resident.

(10). Wilton H. Ely, who died leaving descendants as follows:

- (1). Emmett Ely,
- (2). D. R. Ely,
- (3). Rosa Robbins,
- (4). Octa Smith, an infant,
- (5). Marion Ely, and infant,
- (6). Palestine Ely, an infant

(9). Nimrod C. Ely a brother <sup>of said testator</sup>, who died leaving descendants as follows:

- (1). Rebecca Weston,
- (2). Emily Munsey, who is a non-resident,
- (3). Eva Fletcher, who is a non-resident,
- (4). Susan Young, and

(5). Betsey Howard, who died leaving the following descendants:

- (1). John M. Howard, an infant,
- (2). Eva J. Skaggs,
- (3). Octa E. Johnson, and

(4). Mary Gilley, who died leaving the following descendants:

- (1). Emory Gilley, who is a non-resident,
- (2). Cornie Parks,
- (3). Creed F. Gilley,
- (4). Annis Litton,
- (5). Tip Gilley, who is an infant, and
- (6). Gale Gilley, who is an infant.

(10). A. J. Ely a brother <sup>of said testator</sup>, who died leaving the following descendants:

- (1). Rebecca Cecil,



<sup>2</sup>  
(2). Mary Cox.

(3). John Z. Ely, one of your orators,

(4). Amanda Hughes,

(5). Sarah Myers,

Your orators will further show unto your honor, that they are informed that there is considerable doubt, as to the proper construction of said will of said Joseph N. Ely; and that the distribution of the funds in their hands, and which will come into their hands as administrator of said Sarah S. Ely, entirely depends upon the legal construction of the same, and such being the case your orators were unwilling to take upon themselves the risk of distributing said fund, without the sanction and order of the court; for they are advised, if they were to go ahead and distribute the same, and the courts should afterwards hold they had properly construed said will, and paid out said funds to the right persons, they would be discharged on their bond, but should the said will be construed different by the courts to their construction of the same, they would not be relieved on their bond, and would have to pay out the funds in their hands, according to the findings of the court upon the same.

Your orators are advised, and will show unto your honor, that <sup>there</sup> are three probable constructions of said will, to; wit:

First, that the funds in their hands, and that <sup>which</sup> will come into their hands as <sup>as well as his entire estate</sup> such administrators, should be disbursed by paying out to said America Graham, the heirs and descendants of Tobias S. Pennington and Virginia Garison, one-third <sup>per stirpes</sup> of the same, and the other two-thirds to the <sup>the brothers & sisters</sup> ~~sons~~ and descendants of Joseph N. Ely as before set out <sup>per stirpes</sup>;

Second, that the estate of said Sarah S. Ely should be first charged with the net amount which went into her hands on the death of said Joseph N. Ely, and that amount divided and distributed one-third to the said America Graham, the heirs and descendants of said Tobias S. Pennington and the heirs and descendants of said Virginia Garison, <sup>per stirpes</sup> and two-thirds of the same to be divided and disbursed among the heirs and descendants per stirpes of said Joseph N. Ely's ten brothers and sisters, above set out; and the rest and residue of said Sarah S. Ely's estate, over and above the amount that went into her hands at the death of said Joseph N. Ely to descend under the statutes of descents and distribution to the



sisters and brother of said Sarah, or their descendants, who are the said America Graham, and Mary P. Ely, Cynthia Myers, Sarah E. Myers, and John H. Pennington, sons and daughters of said Tobias S. Pennington, and Thomas Garrison, and Daniel G. Simpson who are son and grand-son of said Virginia Garrison, and a half-sister, Mrs. Amanda Reasor, who is dead but left surviving her Minerva Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Belle Reasor and Cass Reasor as heirs;

And Third, that said ~~will~~ will in law gives absolutely and in fee simple all the estate both real and personal to the said Sarah S. Ely, and she having died intestate, the same under the statutes of descents and distributions, will pass and should be disbursed among said America Graham, one share, to said John H. Pennington, Sarah E. Myers, Cynthia Myers and Mary P. Ely, children of said Tobias S. Pennington, another share and to be equally divided among them, and another share to said Thomas Garrison, and Daniel G. Simpson, to be equally divided between them, and a one-half share to said children of said Amanda Reasor to be equally divided among them; *and said descendants of said ten brothers & sisters of said Joseph W. Ely take nothing whatever.*

Now the foregoing premises considered, your orators are advised that they could not safely undertake without the direction of the court to disburse the effects of said estate, that courts of equity will when proper and necessary construe wills, and aid fiduciaries in the proper distributions of funds in their hands; *and reasonable attorney's fees* and the costs incident to such ~~to~~ be paid out of the funds in their hands *that will be requisite to have these proceedings finally terminated*

The prayer therefore of your orators ~~is~~ *is* that you will take cognizance of their cause of complaint; that you will construe said will, direct how and to whom they shall pay the funds that have and will come into their hands as such administrator, and have taken all necessary accounts as will effectually settle all matters that may arise under said will and the due and proper administration of said Sarah S. Ely's estate. And to that end your orators will further pray that *and your orators in their own right & H. J. Witham* all in the foregoing named persons who are alleged as being interested in the estate of their said decedent, together with those who are alleged to have or may have an interest therein, but whose names are unknown, be made parties defendants *under the general description of parties unknown* to this bill, and ~~be~~ *the adults in person, and the infants by a guardian ad litem* be required to answer the same, but they need not do so on oath as that is especially waived; that a guardian ad litem be duly appointed

\* and in their answer set out their construction of said will

Elys will mixed with said J. W. Ely's will



for all of said persons alleged heretofore to have an interest in said estate,  
*who shall answer for them.*  
and shown to be infants; that an order of publication be duly made against all  
of said defendants who are shown to be non-residents of this State and also  
against such persons who may or have an interest in this cause, but are unknown  
to your orators, as may be done under section 5230 of the Code for 1887, affida-  
vit having been duly made as required thereby; and that they be allowed in their  
administration account all proper and necessary expenses and costs out of the  
funds which will be charged against them as such administrators by reason of this  
proceeding. And that all other further and general relief be awarded them, that  
the nature of this cause, good conscience and equity may require, And they will  
pray, etc. May process issue, etc.

*Sumner & Co. J. P.*

53202  
2695



Joseph N. Ely's last will and testament, this the 20<sup>th</sup>. day of J<sup>n</sup>uary, 1863 I  
Joseph N. Ely desire in the first place that all my just debt be paid and funeral  
expenses also; and the second place I desire that after my decease William H.  
France shall have five hundred dollars if living if not nothing, and in the third  
place I desire and will all the remainder of what I am possessed at my decease  
both real and personal to Sarah S. Ely my wife I desire that she shall have sole  
use and control of it so long as she may live, And after her death and all her  
just debts and funeral expenses are paid I then desire one third of all my es-  
tate at that time both real and personal to be equally divided between my wives  
brother<sup>s</sup> and sisters if living I will give their names Tobias S. Pennington, Virgin-  
ian Garrison America Graham. now as Tobias S. Pennington and Virginia Garrison has  
already deceased I desire that their heirs shall draw their part now if America  
Graham shall depart this life before the above distribution of my estate is made  
I will that her heirs shall draw and equally divide her part, I desire and will  
the other two thirds of my estate both real and personal to be equally divided  
between my brother<sup>s</sup> and sisters if living if not I desire the heirs of those  
that may have deceased before this distribution is made of my estate to draw their  
fathers or mothers part and equally divide it between them I will give the names  
of my brothers and sisters above referred to Jane Smyth, Elizabeth B<sup>r</sup>anson, Hiram  
Ely, Rachel Jones, Barbry Parsons, Frances Baily, Diarod C. Ely, Rebecca Reesor, Polly  
Smyth Andrew J. Ely,

Joseph N. Ely,  
John E. Burk,  
John P. Graham,  
Henry G<sup>r</sup>aham.

Virginia,

At a county Court begun and held for Lee County at the court house thereof,  
on Tuesday the 19<sup>th</sup>. day of December, 1882.

The last will and testament of Joseph N. Ely was this day produced in  
court and proved by the oaths of John E. Burk, John P. G<sup>r</sup>aham and Henry G<sup>r</sup>aham the  
subscribing witnesses thereto and ordered to be recorded.

*A Copy, Test: John R. Gibson Clk.*

A copy Tests:

*B. M. Morgan Clerk*

*W. B. 3 p. 55-3.*



*The Commonwealth of Virginia,  
To the Sheriff of the County of Lee, Greeting;*

WE COMMAND YOU, That you summon Elizabeth J. Pennington, Sallie Trent, John M. Smyth, Alexander Smyth, Tennessee Smyth, Rebecca J. Travis, J. T. Smyth, Mary F. Parsons, Nervie O. Bartlett, Wm. Smyth, Martha Quillen, Emily Lucas, Sarah Tharp, Sarah M. Greenwood, John M. Smyth, Jr., James D. Smyth, Elbert M. Smyth, Mary J. Parsons, Mary A. Cary, David W. Smyth, Donie E. Olinger, Charles Smyth, Laura R. Parsons, Luther S. Turner, Wm. E. Turner, Wm. Smyth, Sarah Cole, Joseph L. Smyth, unknown heirs of Amanda Howard deceased, Sarah J. Parsons, John A. Orr, W. T. Orr, Emily Newman, Peter H. Orr, Dollie Pugh, Sallie Turner, Fannie Lewis, Louannie Caywood, Jane Farley, Louisa King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargeant, Mary Caywood, T. P. Smith, Sarah E. Cooney, Mary Carter, Joseph Johnson, John Johnson, Jackson Johnson, Mary Robbins, Sarah Collier, Emily Turner, Vesta Boothe, Gola Johnson, Cora Johnson, Fannie Johnson, Mollie Hughes, Rebecca Johnson, ..... Johnson, Tennessee Smyth, Rebecca Olinger, America Bailey, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, Jas. M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, Emmet Short, Sherman Parsons, George Parsons, Mary Doss, Sarah Mullins, Joseph Branson, Henry Branson, Sampson Branson, Sallie Parsons, Richard Branson, Louisa Colley, the unknown heirs of Chandler Branson deceased, the unknown heirs of Fannie Howard deceased, the unknown heirs of Nimrod Branson decd., Loucinda Parsons, Rebecca Maloney, H. C. Bailey, John M. Bailey, Sallie Cecil, Jane Barker, Lettie Shufflebarger, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons, Jasper Parsons, Newton Parsons, D. S. Reasor, Jackson Reasor, Wallace Reasor, J. Green Reasor, Amanda Olinger, the unknown heirs of Oma Hobbs deceased, Fannie Collier, J. Porter Ely, Isaac Ely, John Ely, George Ely, H. H. Ely, J. E. Smith, Floyd Stewart, James A. Stewart, Simpson Stewart, Lillie Stewart, Emmet Stewart, Ballard Stewart, Laura Stewart, the unknown heirs of Emily Moore deceased, I. P. Ely, W. S. Ely, Hiram Ely, Amanda Ely, John B. Ely, Charles Ely, Leonard Ely, Maud Ely, Sarah Ely, Dora Ely, Crockett Ely, Hiram Ely, the unknown heirs of Laura Harber deceased, the unknown heirs of Elkanah Ely deceased, Sarah Smyth, Minerva Bowen, Lyde Turner, Georgia Ann Ely, Hiram Ely, Jackson Ely, Emmet Ely, D. R. Ely, Rosa Robbins, Octa Smith, Marion Ely, Palestine Ely, Rebecca Weston, Emily Muncy, Eva Fletcher, Susan Young, John M. Howard, Eva J. Skaggs, Octa E. Johnson, Emory Gilley, Cornie Parks, Creed Gilley, Annis Litton, Tip Gilley, Gale Gilley, Rebecca Cecil, Mary Cox, C. D. Bailey, Amanda Hughes, Sarah Myers, America Graham, Mary P. Ely, Cynthia Myers, John H. Pennington, Sarah E. Myers, Thomas Garrison, Daniel G. Simpson, Minerva Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, Cass Reasor, John Z. Ely, *Nancy Stanley*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for said Court, on the 3rd Monday in May, 1900, to answer a bill in Chancery exhibited against them in our said Court by John Z. Ely and J. Morison Smyth Administrators of the estate of Sallie S. Ely deceased.

And have then there this writ. Witness A. B. MUNSEY Clerk of our said Court, at the Court-house, the 23rd day of April, 1900, and in the 124th year of the Commonwealth.

*A. B. Munsey* CLERK.



Executed on the 12 day of May 1900  
by delivering true copies of the within  
summons to the following persons to wit  
J. J. Smith Martha Quillen Emily  
Lucas Sarah Thark John M. Smyth Jr  
James J. Smyth Elbert M. Smyth  
Mary J. Parsons David W. Smyth  
Doris E. Clinger Charles Smyth  
John W. Orr J. Orr Emily Newman  
Peter H. Orr Dollie Pugh J. P. Smyth  
Sarah Mallins Mary Carter Joseph  
Johnson John Johnson Mary Robbins  
Jennette Smith Rebecca Clinger  
America Bailey Soneinda Parsons  
H. C. Bailey John M. Bailey C. D. Bailey  
Jane Barker Lettie Shuffelbarger  
D. S. Reaser Jackson Reaser Wallace  
Reaser Green Reaser Amanda Clinger  
J. Porter Ely George Ely W. H. Ely  
J. C. Smyth Floyd Stewart J.  
James A. Stewart Simon Stewart  
Lilly Stewart W. S. Ely Hiram Ely  
Amanda Ely John B. Ely Charles Ely  
Emmet Ely D. R. Ely Rosa Robbins  
Susan Young Eva J. Skaggs Corrie  
Parkes Oeta E. Johnston Greed Gilley  
Rebecca Cecil Mary Cox John J. Ely  
Amanda Hughes Sarah Myers  
America Graham Mary J. Ely  
John H. Pennington Sarah E. Myers  
Zallie Parsons Oeta Smith  
Francis Maxwell J. Marison Smith  
Sarah Collier by D. P. Ely Sept  
for W. J. Milen & L. C.



Ellyson vs. Hooley & Hinson

John J. Ellyson & J. Hinson  
Smyth adms. &c.

vs. } Billed & answered

Elizabeth J. Pennington

1900 2<sup>nd</sup> May Rules bill  
filed & pa presented on  
home debts & D. N. and  
O.P. for non residents

" 1<sup>st</sup> June rules taken the  
last Monday in May  
O.P. Complete & D. N.  
Conf'd. & Cause set for  
hearing.

E.W. PENNINGTON.

ROBT. L. PENNINGTON

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GAP, VA.



To the Honorable H.A.W. Sken, Judge of the Circuit Court for Lee County:

Humbly complaining, your orators, John E. Ely and Mary P. Ely, who are residents and citizens of this county and State, would respectfully represent, and show unto your honor, that Joseph N. Ely, an uncle of your complainants, in his life time was seized and possessed of certain real estate in the County of Lee and on the waters of Dry Branch, which real estate is properly described in his title papers, which are here filed and made a part of this bill, marked "Deeds"; and being so seized and possessed, the said Joseph N. Ely on or about the 11th day of December, 1882, died childless, but testate; that his will was on 19th day of December, 1882 duly probated and recorded in the county court for Lee County, a copy of which is here filed and prayed to be taken as a part of this bill; that as will be seen from an inspection of his said will he gave all his real estate as well as his personal estate to his wife, Sarah S. Ely, for her life, and who also on the 12<sup>th</sup> day of April, 1900 departed this life childless and intestate; and the remainder over he gave one-third thereof to his wife's sisters: America Graham, and to Virginia Garrison's descendants, and Tobias S. Pennington's descendants per stirpes, and the other two-thirds of his real estate, he gave to his ten brothers and sisters, or their descendant to be divided also among them per stirpes.

Your orator and oratrix will further show unto your honor, that America Graham, one of the devisees in said will is still living; that the heirs of the Tobias S. Pennington mentioned in the same, are your oratrix, Mary P. Ely, Cynthia Myers, who is a non-resident of this State, John E. Pennington, and Sarah E. Myers; and that the heirs of the Virginia Garrison referred to in said will are her son Thomas Garrison and grand-son Daniel G. Simpson, both of whom are non-residents of this State.

Your orator and oratrix will further show unto your honor that each of said Joseph N. Ely's ten brothers and sisters who are made devisees in his said will are dead, but each have descendants, and who under his will, will be ~~xxxxxx~~ entitled to share; your complainants will name them in order, and the descendants of each:

First, Jane Smyth, who is dead, but left surviving and descending as her heirs:

It will be seen from our inspection of the said will of Joseph N. Ely, and Sarah S. Ely jointly drawn tract of



(1). J. Morison Smyth,

(2). Elizabeth J. Pennington, who is a non-resident

(3). Sallie Trent, who is a non-resident,

(4). Wm. Smyth, who is dead but left as descendants, as follows:

(1). John M. Smyth, who is a non-resident,

(2). Alexander Smyth, who is a non-resident,

(3). Tennessee Smyth, who is a non-resident,

and eight other children, but your complainants do not know their their names. Since bringing this suit your orators have found the names of these children to be, Lavina J. Curry, America Combs, Geo. B. Smyth, Jas. M. Smyth, Jesse M. Smyth, and Amanda G. Shackelford, and Delina C. Lane, who is dead, but left four children, to-wit: Alice May, Henderson, Belle, and Cora Lane, and all of whom are non-residents

(5). Edward Smyth, who is dead, but left as descendants, as follows:

(1). Rebecca J. Travis,

(2). J. T. Smyth,

(3). Mary F. Parsons, who is a non-resident

(4). Nervia C. Bartlett, who is a non-resident,

(5). Wm. Smyth,

(6). Martha Guillen,

(7). Emily Lucas, and

(8). Sarah Tharp;

(6). David Smyth, who is dead, but left descendants surviving, as follows:

(1). Sarah M. Greenwood, who is a non-resident of this State,

(2). John M. Smyth, Jr.

(3). James D. Smyth,

(4). Mary J. Parsons, who is a non-resident,

(5). David W. Smyth,

(6). Elbert M. Smyth,

(7). Mary A. Carey, who is a non-resident of this State,

(8). Donie E. Clinger

(9). Charles Smyth, and



(10). Laura E. Parsons, who is a non-resident of this State, and

(11). Alice Turner, who is dead, leaving two children, to; wit:

(1). Luther S. Turner, *an infant and*

(2). Wm. E. Turner, *an infant*

(7). James Smyth, who is dead, but left surviving as follows as heirs:

(1). Wm. Smyth, who is a non-resident of this State,

(2). Sarah Cole, who is a non-resident of this State,

(3). Joseph L. Smyth, who is a non-resident of this State, and XXXXXXXX

(4). Amanda Howard, who is dead but left surviving her two children, but your complainants do not know their names

(8). Rebecca Orr, who is dead but left surviving her six children as heirs:

(1). Sarah J. Parsons, who is a non-resident of this State,

✓ (2). John *A.* Orr,

✓ (3). Wm. T. Orr,

✓ (4). Emily Newman,

✓ (5). Peter H. Orr, and

✓ (6). Dollie Pugh.

Second, Rachel Jones, another sister of said testator, who is dead but left as heirs and descendants, as follows:

(1). Sallie Turner, who is a non-resident of this State,

(2). Fannie Lewis, who is a non-resident of this State,

(3). Lou Annie Caywood, who is a non-resident of this State, and

(4). Emily Sargent, who is dead left descendants as follows:

(1). Jane Farley, who is a non-resident of this State,

(2). Louise King, who is a non-resident of this State,

(3). Rachael Doss, who is a non-resident of this State,

(4). Emily Maupin, who is a non-resident of this State,

(5). Bettie Grider, who is a non-resident of this State,

(6). Grant Sargent, who is a non-resident of this State, and

(7). Mary Caywood, who is a non-resident of this State,

Third. Polly Smyth, another sister of said testator, who is dead, but left as descendants and heirs, as follows,

✓ (1). F. P. Smyth,



✓ (2). Sarah Cooney,

✓ (3). Mary Carter,

(4). Rebecca Johnson, who is dead, but left children as follows:

✓ (1). Joseph Johnson,

✓ (2). John Johnson,

✓ (3). Mary Robbins,

(4). Jackson Johnson, who is a non-resident of this State,

(5). Sarah Collier, who is a non-resident of this State,

(6). Emily Turner, who is a non-resident of this State,

(7). Vestat Boothe, who is a non-resident of this State,

(8). Gola Johnson, who is an infant

(9). Cora Johnson, who is an infant,

(10). Nacey Stanley, and

(11). James Johnson, who is dead, but left children as follows:

(1). Fannie Johnson, who is an infant,

(2). Mollie Hughes, who is an infant,

(3). Rebecca Johnson, who is an infant,

(5). Joseph <sup>Rosa</sup> Smyth, who is dead, but left children as follows:

✓ (1). Tennessee Smyth,

✓ (2). Sarah Mullins,

✓ (3). Rebecca Olinger,

✓ (4). America Bailly,

(5). Emmett Smyth, who is an infant,

(6). Fannie Smyth, who is an infant,

(7). Flora Smyth, who is an infant, and

(8). Joseph Smyth, who is an infant

(6). Wm. Q. Smyth, who is dead, but left children as follows:

(1). James M. Smyth, who is an infant and non-resident of this State,

(2). Cora Smyth, who is an infant and non-resident of this State,

(3). Jackson Smyth, who is an infant and non-resident of this State,

(4). David Smyth, who is an infant and non-resident of this State;



(7). Francis Parsons, who is dead, but left children as follows:

(1). Emma Short, an infant,

(2). Sherman Parsons, who is an infant,

(3). George Parsons, who is an infant;

(8). America Doss, who is dead, but left one child surviving her, to-wit:

(1). Mary Doss, who is an infant;

Fourth; Elizabeth Branson, another sister of said testator, who is dead, but left the following children and descendants:

(1). Joseph Branson, who is a non-resident of this State,

(2). Henry Branson, who is a non-resident of this State,

(3). Sampson Branson, who is a non-resident of this State,

(4). Richard Branson, who is a non-resident of this State,

(5). Louise Colley, who is a non-resident of this State,

✓ (6). Sallie Parsons,

(7). Chandler Branson, who is dead, but left descendants, but their names are unknown to your complainants;

(8). Fannie Howard, who is dead, but left descendants, yet their names are unknown to your complainants, and

(9). Nimrod Branson, who is dead leaving descendants, but their names are names are unknown to your complainants;

Fifth. Francis Bailey, another sister of said testator, but who is dead, leaving the following children and descendants surviving her:

✓ (1). Lucinda Parsons,

(2). Rebecca Maloney, who is a non-resident of this State

✓ (3). H. C. Bailey,

✓ (4). C. D. Bailey,

✓ (5). John M. Bailey,

✓ (6). Sallie Cecil,

✓ (7). Jane Barker, and

(8). Louise Flanary, who is dead, but left the following children:

(1). P. C. Flanary, who is a non-resident of this State,

(2). Francis Maxwell, who is a non-resident of this State,

✓ (3). Lettie Shufflebarger.



Sixth: Barbary Parsons, another sister of said testator, who died and left the following descendants:

- (1). Elizabeth Parsons, who is a non-resident of this State,
- (2). Sasan Parsons, who is a non-resident of this State,
- (3). Jasper Parsons, who is a non-resident of this State,
- (4). Newton Parsons, who is a non-resident of this State,
- (5). And some other children, who are unknown to your complainants.

*another sister of said testator*  
Seventh: Rebecca Reasor, who is dead, but left the following descendants:

- (1). D. S. Reasor,
- (2). A. J. Reasor,
- (3). Wallace Reasor,
- (4). J. Green Reasor,
- (5). Fannie Collier, who is a non-resident,
- (6). Amanda Clinger,
- (7). John Reasor, who is dead, but left the following children as heirs:  
*S. Mustard*
  - (1). Minerva ~~Humphrey~~, who is a non-resident of this State,
  - (2). Rebecca Barron, who is a non-resident of this State,
  - (3). John Reasor, who is a non-resident of this State,
  - (4). Peter Reasor, who is an infant and non-resident of this State,
  - (5). Fannie Reasor, who is an infant and non-resident of this State
  - (6). Belle Reasor, who is a n infant and non-resident of this State, and
  - (7). Cass Reasor, who is an infant and non-resident of this State;

*(8) Anna Stobbs who is dead her heirs are unknown*  
Eighth: Hiram Ely, a brother of said testator, and who died leaving the following

descendants:

- (1). J. Porter Ely,
- (2). Isaac Ely, who is a non-resident of this State,
- (3). John Ely, who is a non-resident of ~~this~~ State,
- (4). George Ely,
- (5). H. E. Ely,
- (6). Rinda Smyth, who is dead, but left surving the following descendants:
  - (1). James E. Smyth,
  - (2). Sarah Stewart, who is dead, but left the following descendants:
    - (1). Floyd Stewart,



- (2). James A. Stewart,
  - (3). Simon Stewart,
  - (4). Lily Stewart,
  - (5). Emmett Stewart, who is an infant,
  - (6). Ballard Stewart, who is an infant,
  - (7). <sup>a</sup>Lura Stewart, who is an infant
- (3). Emily Moore, who is dead, but left children surviving her, but their names are unknown to your complainant.
- (7). W. H. Ely, who is dead, but left surviving him the following descendants:
- (1). I. P. Ely,
  - (2). W. S. Ely,
  - (3). Hiram Ely,
  - (4). Amanda Ely,
  - (5). John B. Ely,
  - (6). Charley Ely,
  - (7). J. M. Ely, who is dead, but left the following descendants:
    - (1). Leonard Ely, ~~xxx~~ who is an infant, and
    - (2). Maud Ely, who is an infant;
- (8). W. H. Ely, who is dead, but left the following descendants:
- (1). Sarah Ely who is an infant,
  - (2). Dorah Ely, who is an infant,
  - (3). Crocket Ely, who is an infant,
  - (4). Hiram Ely, who is ~~axxixxxy~~ non-resident of this State,
  - (5). Laura Harber, who is dead, but left descendants, yet whose names are unknown to your complainants, and
  - (6). Elkanah Ely, who is dead, but left descendants, yet their names are unknown to your complainants.
- (9). Jackson Ely, who is dead, but left the following descendants:
- (1). Sarah Smyth, who is a non-resident,
  - (2). Minerva Bowen, who is a non-resodent of this State,
  - (3). Lyde Turner, who is a non-resident of this State
  - (4). Georgia ANN Ely, who is a non-resident of this State,
  - (5). Hiram Ely, who is a non-resident of this State



(8). Jackson Ely, who is a non-resident of this State,  
(10). Milton H. Ely, who is dead, but left descendants surviving as follows:

- (1). Emmett Ely,
- (2). D. R. Ely,
- (3). Rosa Robbins,
- (4). Octa Smith, ~~an infant~~,
- (5). Mar<sup>i</sup>don Ely, and infant
- (6). Palestine Ely, an infant.

Ninth: Nimrod C. Ely, another brother of said testator, who died leaving the following descendants:

- (1). Rebecca Weston,
- (2). Emily Munsey, who is a non-resident of this State
- (3). Eva Fletcher, who is a non-resident of this State,
- (4). Susan Young, and
- (5). Betsey Howard, who is dead, but left the following descendants:
  - (1). Eva J. Skaggs,
  - (2). Octa E. Johnson,
  - (3). John M. Howard an infant, and
  - (4). Mary Gilly, who is dead but left the following children surviving her:
    - (1). Emory Gilly, who is a non-resident of this State,
    - (2). Cornie Parks,
    - (3). Creed F. Gilly,
    - (4). Annis Litton,
    - (5). T<sup>p</sup> Gilly, who is an infant
    - (6). Gale Gilly, who is an infant

Tenth: Andrew J. Ely, who died leaving the following children as descendants:

- (1). Rebecca Cecil,
- (2). Amanda Hughes,
- (3). Sarah Myers, and
- (4). John Z. Ely, one of your orators.
- (5). Mary<sup>E</sup> Cox.



x2x /9/

Your orator and oratrix will further show unto your honor, that since the death of the said Joseph N. Ely, the Louisville and Nashville Railroad Co. about the year 1898 had duly condemned under the laws of Virginia a right of way for its road through the lands which he owned at the time of his death, and has built through the lands <sup>of which</sup> he died seised and possessed, its road; that the money paid for said right of way was turned over to the said Sarah S. Ely, and with it, she bought from J. T. Hughes and wife a small, but very valuable tract of some <sup>ten</sup> acres of land, adjoining the other lands owned by the said Joseph at his death, and took a deed to herself. Now your orator and oratrix, are advised that since the money coming from the real estate owned by the said Joseph N. Ely at his death paid for this land, although a deed was made to her alone, in law and equity she would be a trustee merely for this tract of land, and the same should pass and be disposed of under his will in the same manner as if he had owned the lands at his death.

Now your orator and oratrix are advised that they are entitled to have said real estate partitioned ~~xxxxxx~~ in equity among those entitled thereto, if the same can conveniently be done, and if it can not be conveniently partitioned among those interested and entitled, to have the same sold under a decree of your honor's court, and the proceeds of such sale distributed among those entitled to the lands, according to each ones respective rights. Your complainants are advised, aver and allege that as there are so many interested in said real estate a partition of said real estate among the parties interested would be impracticable, inconvenient, and render each ones share almost worthless; so they are advised that the whole of said real estate may be sold under section 2584 of the Code for 1887, and the proceeds distributed among the parties interested, according to their respective rights therein, and thereby the interest of all concerned, be promoted.

The premises considered, your complainants are advised that they have rights remediless only in a court of equity; they, therefore, pray that your honor will take cognizance of their said cause of complaint; that all of the foregoing named persons, except your complainants, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ who are alleged to be interested in said real estate, together with those who are alleged to have or may have an interest therein, but whose names are unknown <sup>to</sup>



your complainants under the general description of parties unknown, be made parties defendants to this bill of complainat and required to answer the same, but not on oath as that is waived, the said adults in their own proper person and said infants by guardian ad litem; that a proper guardian ad litem be appointed for all of said infants who shall answer this bill for them, but not on oath as that is waived also; that an order of publication be duly made against each of said defendants who are alleged to be non residents of this State, and also against such persons who may or have an interest in this cause, but whose names are unknown to your complainants, as may be done under section 3230 of the Code for 1887-affidavit having been duly made as required thereby; that all of said real estate be sold and the proceeds divided, in case the same be indivisible in kind; or, if mistaken in their opinion of the indivisibility of the same, and the same can be conveniently divided then the same be properly divided among the parties entitled; that in making a sale or division of said real estate, the said tract bought by said Sarah S. Ely since the death of said Joseph E. Ely, be taken in account along with the other lands, and disposed of in the same ~~xxx~~ manner, and to the same persons; but if your complainants should be mistaken as to the facts and law with respect to said last named tract of land, and the same should in law pass and descend to the heirs of said Sarah S. Ely, above set out, their prayer in respect thereto is that the same be sold or divided as it may appear to your honor to be to the best interest of all concerned. And your complainants further pray that process issue herein against all of said defendants; that all proper and necessary orders and decrees may be made, accounts taken and enquiries directed, and that all other, further and general relief be granted as in the premises may be just and right, and will comport with good conscience and equity. And your complainants will ever pray, etc.

*Pennington Bros.* p-q-



Joseph N. Ely's last will and testament, this the 20th. day of January, 1882 I Joseph N. Ely desire in the first place that all my just debts be paid and funeral expenses also; in the second place I desire that after my decease William H. France shall have five hundred dollars if living if not living nothing, and in the third place I desire and will all the remainder of what I am possessed at my decease both real and personal to Sarah S. Ely my wife I desire that she shall have the sole use and control of it so long as she may live, And after her death and after all her just debts and funeral expenses are paid I then desire one third of all my estate at that time both real and personal to be equally divided between my wives brothers and sisters if living I will give their names Tobias S. Pennington, Virginia Garrison America Graham. now as Tobias S. Pennington and Virginia Garrison has already deceased, I desire that their heirs shall draw their part, now if America Graham shall depart this life before the above distribution of my estate is made I will that her heirs shall draw and equally divide her part, I desire and will the other two thirds of my estate both real and personal to be equally divided between my brothers and sisters if living if not living I desire the heirs of those that may have deceased before this distribution is made of my estate to draw their Fathers or mothers Part, and equally divide it between them, I will give the names of my brothers and sisters above referred to Jane Smyth, Elizabeth Branson Hiram Ely; Rachel Jones, Barbry Parsons Frances Baily; Nimrod C. Ely, Rebecca Roaser Polly Smyth Andrew J Ely.

Joseph N. Ely,  
John E. Burk,  
John P. Graham,  
Henry Graham.

Virginia,

At a county court begun and held for Lee County at the court-house thereof, on Tuesday the 19th. day of December, 1882.

The last will and testament of Joseph N. Ely was this day produced in court and proved by the oaths of John P. Graham, John E. Burk and Henry Graham the subscribing witnesses thereto and ordered to be recorded.

*A copy*  
*Teste John R. Gibson Clerk,*

*A Copy Teste:*

*B. M. Morgan Clerk.*



W.B. No. 3. 1. 553



John Z & Mary P. Ely.

vs. } Bill in Chancery

J. Monson Smyth et al

1900. 2nd May Rules bill  
filed & pa executed on home  
defts & O. P. for non-residents  
& D. N.

" 1st June rules taken the  
last Monday in May O. P.  
Complete & D. N. Conf'd & Cause  
set for hearing.

E. W. PENNINGTON

ROBT. L. PENNINGTON

Pennington Bros.

ATTORNEYS AT LAW

JONESVILLE AND PENNINGTON GARVA.



To the Honorable H.A.W.Skeen, Judge of the Circuit Court of Lee County, Virginia:

Your petitioner, J.C.Noel, will respectfully represent and show unto your Honor that when the suit in chancery was instituted in this Honorable Court by J.Morrison Smyth and John Z.Ely administrators of the estate of Sarah Ely, deceased, the purposes of which was to have the will of the late Joseph N.Ely, deceased, construed; that after Judge C.T.Duncan was employed as stated in his petition which your petitioner has read and here adopts the same as a part of his petition, that he was approached by heirs of Sarah S.Ely and representatives of heirs and asked to assist C.T.Duncan in the conducting of their defence in said ~~Two~~ suits; that they informed him of the contract they had made with said C.T.Duncan and he agreed to ~~an~~ undertake to assist in said defence on the same terms: that is for a certain fee of \$10.00 and a contingent fee of a reasonable fee of a reasonable commission on all of said estate held by the heirs of Sarah S.Ely in excess of one-third of said estate.

Your petitioner faithfully performed his duties in all things and he represents to your Honor that a fee of ~~on~~ 5% on said excess in addition to said \$10.00 will be a reasonable, and only reasonable fee for the services performed by him, and this he prays the Court will direct to be paid to him by the administrators of said estate and the Commissioners appointed to sell the land. And as in duty bound he will ever pray &c.

J.C.Noel

Virginia, Lee County, to-wit:

This day personally appeared before me, Geo.P.Cridlin, a notary public in and for the County and state aforesaid, J.C.Noel, whose petition is written above, and made oath that the facts stated therein are true to the best of his knowledge and belief.

Given under my hand, this the 5th day of March, 1901.

Geo. P. Cridlin  
Notary public.



Adm<sup>o</sup> 076  
J Morrison Snythe & Co

75' } Petition of  
      } J. C. Stoll

Carol S. Day's heirs

Filed in open Court and  
by leave thereof March  
the 5<sup>th</sup> 1901.

A. B. Munsey Clerk



To the Hon. H. A. H. Skene Judge  
of the Circuit Court for Sw Co.

Your petitioner, the  
Powell Valley Bank, a cor-  
poration doing business under  
the laws of the State of Virginia  
would respectfully show  
unto your honor that by vir-  
tue of some of your honor re-  
turned at the March term 1901  
in the chancery cause of John  
Z. & Mary S. Ely vs. J. Morrison  
Smith et al, it brought from  
James H. Hall & Dunnington two  
notes on N. L. Johnson are of  
A. Johnson for \$1764<sup>00</sup> each,  
and dated Jan. 21<sup>st</sup> 1901 and  
payable in one and two  
years from their date with  
interest; that said notes  
were executed by said  
Johnson for the same piece  
of land of the late J. M. &  
Sarah S. Ely; that since said  
notes were bought by your  
petitioner, said Johnsons have  
paid off the first one, and  
that there ~~are~~ is yet due  
\$1764<sup>00</sup> with Int. from Jan.



21<sup>st</sup> 1901.

Your petitioner begs leave  
to state it has a lien on  
the land for which said  
note was given; but is willing  
if your honor sees fit to do  
so, that a sum be appointed  
and said N. E. Johnson be  
made a deed to said land,  
retaining therein a lien upon  
said land for said \$1764<sup>00</sup>  
with interest from Jan 21<sup>st</sup>  
1901 till paid in favor of  
your petitioner

And it will ever pray &c

POWELL'S VALLEY BANK  
JONESVILLE, VA.

By O. E. Evans Esq.



Ely & Son<sup>th</sup>

Petition of  
vs } Powell & Valley  
Bank

J. M. Son<sup>th</sup> & Son

Filed in open Court  
and by leave thereof  
November 7<sup>th</sup> 1901

A. B. Munsey Clerk



To the Honorable H.A.W.Skeen, Judge of the Circuit Court for Lee County, Virginia:

Your petitioner C.T.Duncan, will respectfully represent and show to your Honor that when the suit in Chancery was instituted in this Honorable Court by J.Morrison Smyth and John Z.Ely, administrators of the estate of Sarah Ely, deceased, the purposes of which was to have the will of the late Joseph N.Ely construed, that he was approached by representatives of the heirs, and heirs, of the late Sarah Ely and sked by them to defend their interest in said suit together with their interest in the suit filed by John Z.Ely and wife against the administrators of Sarah Ely, the heirs of Sarah Ely and the heirs of Joseph N.Ely. These parties claimed to represent all of the heirs of Sarah Ely, deceased, except the heirs of Amanda J.Reasor deceased. They made a contract with your petitioner to pay him the sum of \$10.00 and a conditional fee of a reasonable per cent on all of said estate held by the said Sarah Ely's heirs over and above the one-third part thereof; and they further agreed to employ another attorney to assist him in said defence.

Your petitioner will now show your Honor that he faithfully represented said heirs in said litigations and that he filed ther answer, carefully briefed their case, argued the said in all of which he was ably assisted by John C.Noel a practicing attorney of this Bar.

Your petitioner further represents that as your Honor is fully aware the will was so construed as to give to the said Sarah S.Ely's heirs the 11 acre tract of land, which sold for \$825.00 and some \$3600.00 to \$4000.00 in personal property over and above one-third of a said entire estate.

Your petitioner will now further represent that a commission of ~~5%~~ on all of said funds in excess of one-third as aforesaid will be a very low and certainly a ver reasonable fee for his services in addition to said \$10.00. All of which your petitioner asks your Honor to direct to be paid to him by the administrators and the commissioners who sold the land before the fund in their hand is distributed to said heirs. And as in duty bound your petitioner will ever pray &c.

C. T. Duncan



Virginia, Lee County, to-wit:

This day, C.T.Duncan, personally appeared before me, Geo.P.Cridlin a notary public in and for said County and state aforesaid and made oath that the facts stated in the foregoing petition are true to the best of his knowledge and belief.

Given under my hand, this the 5th day of March, 1901.

Geo. P. Cridlin  
Notary public.

J. Morrison Secy of State

Petition of

W. C. T. Duncan

vs. S. E. Ely's heirs

Filed in open Court and  
Ely leave there of March 5<sup>th</sup>

1901. A. B. Munsey Clerk



\$ 5 00.

one day after date I promise  
to pay James P. Ely. five  
Dollars. for value received  
of him I waive the home  
stead & all other Exemption  
Laws as to this debt  
Witness my hand and Seal  
this Oct. the 10 day 1888

His

Test

Clark Reeder

J. P. Ely Seal  
J. M. R.



note \$ 500

A. J. Ely



\$25.00

By the first of October  
1889 I bind myself heirs  
and to pay J. J. P. Ely  
twenty five dollars for value  
received of him Waveren the home  
stead and all other Exemption laws  
as to this debt. Witness our hand  
and Seal this Oct 20 1889

A. J. <sup>hoc</sup> Ely Seal  
mark

Test

Elizabeth Ely



To the Hon. W. A. H. Shum, Judge of  
the Circuit Court for Lee County.

Your petitioner Isaac P. Ely  
would respectfully represent unto  
your honor that John Z. Ely and  
J. M. Smith as adms. of the  
estate of Sarah S. Ely have  
instituted ~~and~~ suit against  
the heirs of Sarah S. Ely and  
heirs of Joseph M. Ely, for the  
purpose of constraining the heirs  
of said Joseph M. Ely and to  
direct them how and to whom  
to pay the money in their hands,  
that in an order in said  
cause entered on the day  
of August, 1900, your honor  
decided that the brothers  
and sisters of said Joseph  
M. Ely, and their descendants  
were entitled to two-thirds  
of the estate left by Sarah  
S. Ely.

Your petitioner will further



show unto your honor that  
A. J. Ely (son of Hiram) departed  
this life <sup>intestate</sup> in Ely - about the  
year 1896, - long after the  
death of said Joseph H. Ely;  
that said A. J. Ely's ~~will~~  
in his life time made and  
executed and delivered to your  
petitioner a note for \$25<sup>00</sup> pay-  
able Oct. 1<sup>st</sup>, 1889; that said  
note is still due and unpaid;  
that said A. J. Ely in his life  
time made and executed to  
James P. Ely a note for \$5<sup>00</sup> and  
due one day after date; that  
said James P. Ely has transferred  
<sup>and assigned</sup> his note to your petitioner and  
the same is also unpaid; that  
said A. J. Ely died leaving him  
a widow, Elizabeth Ely,  
and six children to-wit  
Sarah Smyth, Minerva Bowen, Lyda, Hiram  
George Amos Ely, Hiram Ely and Jackson Ely  
as heirs at law and distrib-  
utors of the estate of A. J. Ely



and so such are entitled  
to the share of their father  
subject to the payment of his  
debts;

Now your petitioner is advised  
that he is entitled to have  
his said debt decreed against  
the share of said A. J. Ely in  
said <sup>and Sarah's</sup> Joseph N. Ely's estate;  
and said adms. directed to  
pay the same.

The prayer therefore of  
your petitioner is that he be allow-  
ed to file this petition, that said  
Sarah Smith, Minerva Bowser, Lyda  
Turner, William Ely and Jackson  
Ely and John J. Ely and J. M. Smith adms.  
of the estate of said Joseph N. Ely  
be made parties defendants  
to the same, that they be re-  
quired to answer but not an  
oath, that an order of publi-  
cation be made against  
said defendants as they are  
all non-residents of  
this State; that on a hearing  
of this petition, he be given  
a decree for said sums of  
money, and said Ely & Smith

\* W. J. William adms. of the  
estate of A. J. Ely decd



advers. of Sarah S. Ely be  
 directed to pay the same out of  
 the fund in their hands belonging  
 to the heirs and distributies of  
 said A. J. Ely; and that all other  
 aid of general relief be awarded  
 him as the nature of his cause  
 may require

J. P. Ely by  
 Drummington Ross.

A. J. Ely

vs Petitioner

A. J. Ely's heirs

1901 1st May rules petition  
 filed & O. P. & Court  
 " 2 May rules O. P.  
 Complete & Cause set  
 for hearing by  
 self.

Plffs costs

Clerk 3.60

Printer 8.00

J. P. 1.75

~~Att~~ 7.23

wit .50

12.88



John Z. and Mary P. Ely, et al,

Comaplainants,

vs: In Chancery

J.M. Smith et al.

Defendants,

To the Hon. H. A. W. Skeen, Judge of the Circuit court for Lee Co.:

The answer of Fannie Johnson, Cola Johnson, Cora Johnson, Molly Hughes, Rebecca Johnson, Rosa Johnson, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, James M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, ~~Emmet~~ Emma Short, Sherman Parsons, George Parsons, Mary Doss, Emmet Stewart, Ballard Stewart, Laura Stewart, Leonard Ely, Maude Ely, Sarah Ely, Don Ely, Crocket Ely, Marion Ely, Palestine Ely, John M. Howard, Tip Gilly, Gale Gilly, Luther S. Turner and William E. Turner, infants under the age of 21 years, parties defendant in the foregoing suit in chancery now pending in the Circuit Court of Lee County, Virginia, by James W. Orr, their guardian ad litem, appointed by decree of this court to defend their interests in said suit.

Reserving to themselves all just exceptions that may be had to the plaintiffs bill, these respondents answering say:

That they are infants of tender years and not capable of defending their own interests, and they are advised that infants are the especial objects of the care and protection of a court of chancery, and they commit their interest to this court, praying that they be fully protected by any decrees or orders entered in this cause, and that nothing be done to the prejudice of their rights.

They further say by their guardian ad litem that an answer has been filed in this cause by J. Z. & Mary Ely



and others, adult defendants herein whose interests herein are largely identical in ~~number~~ principle with that of these infant defendants, and these defendants adopt the answer of said adult defendants as a part of theirs and pray that it be considered as a part hereof as fully as if copied herein in full.

And now having answered as fully as they are advised it is material they should answer, these respondents pray to be hence dismissed with their proper costs.

*James W Orr, Guardian  
ad litem for Respondents.*

Virginia, Lee County, to wit:-

I, A. B. Munsey clerk of the Circuit court for Lee County do hereby certify that *James W Orr* guardian ad litem for the foregoing named infant defendants this day personally appeared before me and made oath that the facts set out and the representations made in the foregoing answer are true to the best of his knowledge and belief. Given under my hand this the 8<sup>th</sup> day of June, 1900.

*A B Munsey* clerk.



J. B. Ely sec. Receipts.

vs. 3 Messrs of  
J. M. Orr G. M. R.

J. M. Smyth sec

Filed in open court and by  
leave thereof June 11<sup>th</sup> 1900

A. B. Munsey clerk

E. W. PENNINGTON.

ROBT. L. PENNINGTON.

Pennington Bros.

ATTORNEYS AT LAW.

JONESVILLE AND PENNINGTON GAP VA.



To the Hon.H.A.W.Skeen,judge of the circuit court for Lee county:

The answer of W.J.Milham,administrator with the will annexed of Joseph N.Ely,to a bill of complaint filed in this court by J.Z.Ely,and J.M.Smyth administrators of Sarah s.Ely decd,against him amd others.

Your respondent reserving to himself the benefit of all just exceptions to said bill,answering he says:

~~That~~he personally knows nothing of the matters and things set out in said bill,nor does he either confess or deny any of the allegations contained therein.

Your respondent alleges and asserts that while he is administrator with the will annexed of Joseph N.Ely he does not have,nor ever did have and is informed never will have any effects,or money in his hands of said decedent. He is informed that this estate was committed to him as sheriff for Lee County for the purposes of some litigation, and especially this litigation.

Having therefore answered as fully and completely as he deems it necessary that he should answer, prays to be hence dismissed with his reasonable costs in this behalf expended.

W.J. Milham. Admr.

of the estatet of J.N.Ely decd.

Orr and Irvin

&

Pennington Bros.

Attys.



J. J. Ely & J. M. Smyth administrators

Answer of  
vs. } W. J. Wilham  
          administrators

E. J. Farrington et al

Filed in open court and by  
leave thereof June 11th 1900  
A. B. Mearsey Clerk

Just exceptions to said bill, answering the same:

him and others.

J. N. Ely, and J. M. Smyth administrators of Sarah A. Ely decd, against

of Joseph N. Ely, to a bill of complaint filed in this court by

The answer of W. J. Wilham, administrator with the will annexed

to the Hon. H. V. W. Green, Judge of the circuit court for Lee county:

Penetration Proc.  
Ord and Irvin

At the estate of J. N. Ely decd.

discharged with his reasonable costs in this behalf expended.



To the Hon. H.A.W.Skeen, judge of the circuit court for Lee County:

John Z.Ely and J.M.Smith, ADmrs, et al, Complainants,

vs: In Chancery

Elizabeth J.Pennington et al, Defendants.

The answer of Fannie Johnson, Gola Johnson, Cora Johnson, Molly Hughes, Rebecca Johnson, Rosa Johnson, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, James M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, ~~Emmet~~ Emma Short, Sherman Parsons, George Parsons, Mary Doss, Emmet Stewart, Ballard Stewart, Laura Stewart, Leonard Ely, Maude Ely, Sarah Ely, Don Ely, Crocket Ely, Marion Ely, Palestine Ely, John M. Howard, Tip Gilly, Gale Gilly, Luther S. Turner and William E. Turner, infants under the age of 21 years, parties defendant in the foregoing suit in chancery now pending in the Circuit Court of Lee County, Virginia, by James W Orr, their guardian ad litem, appointed by decree of this court to defend their interests in said suit.

Reserving to themselves all just exceptions that may be had to the plaintiffs bill, these respondents answering say:

That they are infants of tender years and not capable of defending their own interests, and they are advised that infants are the especial objects of the care and protection of a court of chancery, and they commit their interest to this court, praying that they be fully protected by any decrees or orders entered in this cause, and that nothing be done to the prejudice of their rights.

They further say by their guardian ad litem that an answer has been filed in this cause by J. J. Smyth et al



and others, adult defendants herein whose interests herein are largely identical in ~~number~~ principle with that of these infant defendants, and these defendants adopt the answer of said adult defendants as a part of theirs and pray that it be considered as a part hereof as fully as if copied herein in full.

And now having answered as fully as they are advised it is material they should answer, these respondents pray to be hence dismissed with their proper costs.

*James W Orr, Guardian  
ad litem for Respondents.*

Virginia, Lee County to wit:-

I, A.B. Munsey Clerk of the Circuit court for Lee County do certify that James W Orr guardian ad litem for the forgoing infant defendants this day personally appeared before me and made oath that the representations made in the foregoing answer are true to the best of his knowledge and belief. Given under my hand this the 8<sup>th</sup> day of June, 1900.

A.B. Munsey Clerk.



J. M. Smith & Co. Attors.

vs. 3 Assessors of  
J. M. Dr. G. H. L.

E. J. Pennington vs.

Filed in open Court and by  
leave thereof June 11th 1900  
A. B. Munsey Clerk

E. W. PENNINGTON.

ROBT. L. PENNINGTON.

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GAP VA



To the H:norable H.A.W.Skeen, Judge of the Circuit  
Court for Lee County, Virginia:

The answer of Rebecca Weston to a bill of complaint filed in said Court by John z.Ely and J.Morrison Smyth, Administrators of all and singular the goods and chattels, rights and credits which were of Sarah S.Ely, deceased, at the time of her death, and who died intestate, against her and others.

Your respondent reserving to herself all just exceptions to the plaintiffs' bill, yet answering says:

That it is true as stated in said bill that the said Joseph N.Ely, <sup>testate</sup> ~~as she supposes~~, on the 11th day of December 1882, departed this life; that a certified copy of said Ely's will is filed with the plaintiffs' bill marked "W"; that said will was duly admitted <sup>to probate</sup> in the court and on the date stated in the bill; that the bill correctly states so far as this respondent knows the names and present status of the ~~descendants~~ the brothers and sisters and their descendants of the said Joseph N. Ely, deceased, and also the names and status of the brothers and sisters, and their descendants, of the said Sarah S.Ely deceased; that she supposes it is true that the said John Z.Ely and J.Morrison Smyth have qualified as stated in the bill, as administrators of the estate of the said Sarah S.Ely, but whether or not the amount of the personal estate of the said Sarah S.Ely, which has or will come into their hands, as such administrators, is correctly stated, she does not know, and neither admits or denies that allegation.

Your respondent further answering says it is true that she, Emily Munsey, Eva Fletcher, Susan Young and Betsey Howard are the five daughters of Nimrod C.Ely who was a brother of the testator, Joseph N. Ely and is the same Nimrod C.Ely mentioned by the said testator in his said will, and that she supposes that the descendants of her sister Betsey Howard deceased are all correctly stated in said bill; #####

Respondent says that it is true as stated in the bill that the said William H.France was not living at the death of the testator, nor did he die leaving any descendants.



Respondent further answering says that she is advised and here charges and insist upon it, that there is but one correct interpretation of the will under consideration, which is as follows, <sup>viz</sup> The first interpretation of said will set out by the plaintiffs in their bill which is in brief that all the personal estate which has or will come into the hands of the said administrators, should be disbursed by paying out to the brothers and sisters of Sarah S.Ely or their descendants one-third of the net amount thereof, and to the brothers and sisters or their descendants, of the said Joseph N.Ely two-thirds of the net amount thereof, and that the said real estate be divided in the same way, but if in the opinion of the Court the interest of the parties would be promoted by a sale of the said real estate, then the proceeds thereof be distributed in the same way, and she asks that the said entire estate be divided and distributed upon the basis as stated; or in other words that the entire estate of the said Joseph N.Ely be divided by giving to the brothers and sisters or their descendants of Sarah S.Ely one-third thereof, and to the brothers and sisters or their descendants, of the said Joseph N.Ely two-thirds thereof, and your respondent is advised and humbly submits that this construction is in conformity with the clear and unmistakable intention of the testator as will be clearly seen from the reading of the whole will.

Your respondent further states that it was always the desire of the testator and his wife Sarah S.Ely that the brothers and sisters ~~or their descendants~~ or their descendants of the said Sarah S.Ely should have one-third of the entire estate of the said Joseph and that his brothers and sisters or their descendants should have two-thirds, and it was always agreed and understood between them that it should so pass and that his said will was made to carry out this purpose, and that the acts and the expressions of the said Sarah clearly show that this was his object, and that it was with this view that he gave to his wife an estate for life in his said property; that they had no children by their marriage, and that <sup>it is</sup> as the clear intention of the will that the property should vest in the parties in the proportion as stated in



said will, your respondent is advised that that intention will never be defeated by a technical construction of the will.

Your respondent says that she has been unable to have a consultation with her sisters to arrange for them all to join in the defence of this suit and for them all to contend together for their rights under said will, but she believes it is the desire of all to do so, yet this is her answer alone and she thinks when they have actual notice of the pendency of this suit, that they will contend for the same as she is now contending.

upon the true & correct construction of said will  
Your respondent is advised that she as one of the descendants of the said Nimrod C. Ely, is entitled to a one-fifth part of one-tenth of two-thirds of the entire estate devised by the said will of the said Joseph N. Ely. <sup>and bequeathed</sup>

And now having fully answered as <sup>fully as</sup> she is advised it is material for her to answer she prays to be hence dismissed &c. And she will ever pray &c.

B. H. Sewall,  
atty for Respondent,



Rebecca Weston

Advs { Answer of  
Rebecca Weston }

John & Ely Walbridge & Co.

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Filed in open Court and  
by leave thereof June the  
11th 1900.

A. B. Mursey Clerk



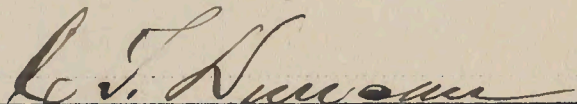
To the Honorable H.A.W.Skeen Judge of the Circuit Court  
of Lee County, Virginia:

The answer of Peter Reasor, Belle Reasor, Fanny Reasor and Cass Reasor, infants under the age of twenty-one years, by C.T.Duncan, their guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against them and others, in the Circuit Court of Lee County, by John Z.Ely and J.Morrison Smyth, administrators of the estate of Sarah S.Ely deceased.

The respondents, reserving to themselves the benefit of all just exceptions to said bill, for answer thereto, or so much thereof as ~~they~~ ~~are~~ advised that it is material they should answer, by their said guardian ad litem, answer and say:

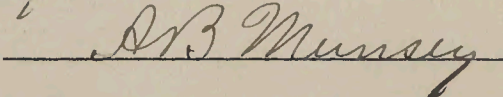
That they are infants of tender years, and by reason of their infancy, are incapable of understanding, or of taking care of their rights and interests. They therefore, by their said guardian ad litem, commend themselves and their rights and interests to the protection of the court and pray that no decree may be pronounced which will tend to their prejudice.

And having fully answered, the said respondents pray to be hence dismissed with their reasonable costs in this behalf expended, and they will ever pray, &c.

  
Guardian ad litem for Peter Reasor, Belle Reasor, Fanny Reasor and Cass Reasor.

Virginia, Lee County, to-wit:

I, A.B.Munsey, Clerk of the Circuit Court for Lee County, do certify that C.T.Duncan guardian ad litem for Peter Reasor, Belle Reasor, Fanny Reasor and Cass Reasor, this day personally appeared before me and made oath that the representations made in the foregoing answer are true to the best of his knowledge and belief. Given under my hand this the 20<sup>th</sup> day of July 1900.

 Clerk.



John F. Ely and  
J. Morison Sargent, Advers.

vs. { Guard ad litum  
answer.

Elizabeth J. Pennington  
and others.



To the Honorable H.A.W.Skeen, Judge of the Circuit Court  
for Lee County Virginia:

The joint answer of America Graham, Thomas Garrison and Daniel G. Simpson, Cynthia Myers, John H. Pennington and Sarah E. Myers to a bill exhibited against them in this Honorable Court by John Z. Ely and J. Morrison Smyth administrators of the estate of Sarah S. Ely deceased.

It is true that Sarah S. Ely was the widow of Joseph N. Ely deceased that the said Joseph N. Ely departed this life on or about the 11th day of December, ~~1882~~ 1882, having first made and published his last will and testament which was duly probated in the County Court of Lee County; it is further true that the said Sarah S. Ely departed this life intestate on the 12th day of April 1900; it is further true that both the said Joseph N. Ely and the said Sarah S. Ely left no issue of their bodies surviving them; it is further true that the said John Z. Ely and J. Morrison Smyth duly qualified as the administrators of the said Sarah S. Ely.

Your respondents suppose that there are such doubts surrounding the proper construction of the will of the said Joseph N. Ely and the distribution of the funds which came into the hands of the said administrators as to render proper a construction of said will or at least a direction to said administrators as to the manner in which they shall distribute the estate which came into their hands, by the Court's point your Respondents are informed that it is true that the three probable constructions of said will mentioned by the complainants in their bill each have their advocates, and that each of said views will perhaps be contended for by the different persons interest in said estate, or claiming to be interested therein.

Your respondents are advised that the construction mentioned by complainants as the third is the true construction of said will. That the testator, Joseph N. Ely, by his will gave absolutely and in fee simple all of his estate both real and personal to his wife Sarah S. Ely, and that she having died intestate said estate passes to her heirs at law who are her sister, America Graham, and the descendants of her other sister, Virginia Garrison and the children and heirs at law of



her deceased brother Tobias S. Pennington.

Your respondents are advised that the law is well settled both by the courts and text writers every where, that wherever an estate is given, whether for life or otherwise, with absolute power of control, use, disposition and alienation, either express or implied, that the devisee takes a fee, ~~whether~~ the estate devised be real or personal. This being the well settled principle of law, your respondents are advised that the only question to be determined is whether or not the devise and bequest in the will of Joseph W. Ely to his wife, Sarah S. Ely is coupled with the unrestrained power in her to dispose of the property. The language of said bequest is as follows: "In the first place I desire and will all the remainder of what I am possessed at my decease both real and personal to Sarah S. Ely my wife I desire that she shall have the sole use and control of it so long as she may live, and after her decease and after all her just debts and funeral expenses are paid I then desire one-third of all my estate at that time both real and personal to be equally divided between my wife's brothers and sisters if living - - - I desire and will the other two-thirds of my real and personal estate to be equally divided between my brothers and sisters, if living if not I desire the heirs of those that may have deceased before this distribution is made of my estate to draw their father's or mother's part and ~~#####~~ equally divide it between them". Your respondents are advised that this language cannot be reasonably construed otherwise than that the devisee said ~~#####~~ Sarah S. Ely had not <sup>only</sup> the power to use the property devised, but that she had the unlimited power ~~ex~~ to sell it, to consume it or to do what she desired with it. The gift over, "of all my estate at that time" shows that the testator intended, notwithstanding the direction that the property was subject to her sole use and control so long as she lived, that she should have the power to dispose of it, consume it or spend it in her life time. This she could only do, being invested with the fee-simple. What might remain of said estate, that is, "all my estate at that time," was all that was to go over. This lan-



guage certainly implied an unlimited and unqualified power of disposition.

Respondent will now show your Honor that if they are mistaken in the view above taken that Sarah S. Ely under the will of her husband Joseph N. Ely, took a fee-simple in all the estate of which her husband died seised, under said will, then certainly the contention made second in the plaintiffs bill should prevail, because the testator could certainly only be held to have contemplated the partition of his own estate among the heirs of himself and his wife. Certainly he never contemplated a division of the earnings and accumulations of his wife, or any part thereof, should be divided between or in any way go to his brothers and sisters or their descendants. The injustice of such a contention is so manifest, that only to mention <sup>it</sup> is sufficient. The testators widow lived for 17 years after the death of her husband. She was industrious and frugal and her savings and accumulations were large and without question they should descend to her heirs, and to them alone.

Such a course as this does no injustice to the heirs of the said Joseph N. Ely, as they will thereby get every cent that they would have gotten, had the estate then been partitioned, and more too, because, they get it now free from any charges in her favor as widow.

Your respondents do not know the value of the estate of the said Joseph N. Ely at the time of his death, but they are advised and informed and they here assert that the said Sarah S. Ely more than doubled the personal estate which came to her hands from her husband, after his death.

~~Respondents~~ Respondents are advised that in no way possible is the said will of the said Joseph N. Ely susceptible of the ~~the~~ construction given by the plaintiffs in what they make or number their first contention.

And now having answered said bill as fully as they are advised it is material to answer it, they pray to be hence dismissed.

*L. J. Duncan*  
*J. L. Nail* 3 *Counsel*  
*For respondents*



John F. Ely et al Adams  
vs. { Answer.

Elizabeth J. Pennington et al  
Answer of America Gra-  
ham and others.

Filed in open court and by  
leave thereof June the 11th  
1900. A. B. Munsey Clerk



To the Honorable H.A.W.Skeen, Judge of the Circuit  
Court of Lee County, Virginia:

The joint answer of America Graham, Thomas Garrison and Daniel G.Simpson, Cynthia Myers, John H. Pennington and Sarah E. Myers to a bill exhibited against them and the other distributees of the estates of Joseph N. Ely and Sarah S. Ely, deceased, in this this Honorable Court, by John Z. Ely and Mary P. Ely.

It is true that the said Joseph N. Ely departed this life on or about the 11th day of December, 1882, having first made and published his last will and testament, which was duly probated in the County Court of Lee County, in which said will he made his ten brothers and sisters and their heirs, which are mentioned in the said Complainants' bill the <sup>devisees</sup> ~~distributees~~ of two-thirds interest in all his lands of which he died seized, and that your respondent America Graham and the descendants of Virginia Garrison and the descendants of Tobias S. Pennington are the devisees of the other third of the real estate of which the said Joseph N. Ely died seized; and that the descendants of the said Virginia Garrison are your respondents Thomas Garrison and Daniel G. Simpson; and that your other respondents Cynthia Myers, John H. Pennington and Sarah E. Myers, together with the Complainant Mary P. Ely are the descendants of the said Tobias S. Pennington.

It is also true that the said Joseph N. Ely died seized of all the lands mentioned in the said complainants' bill for which the said complainants have filed his said title papers, but your respondents deny that the said eleven acre tract purchased by the said Sarah S. Ely after the death of the said Joseph N. Ely, from John T. Hughes is a part of the estate of the said Joseph N. Ely; on the contrary they allege and aver that the said tract of land belonged solely to the said Sarah S. Ely, and upon her death descended immediately to your said respondents as the heirs at law of the said Sarah S. Ely; and that said respondents also aver that they are the sole owners of the said Sarah S. Ely's undivided one-half interest in the 12 acre tract mentioned in said title paper of the said Joseph N. Ely.

These respondents, however, unite with the plaintiffs in the prayer set forth in their bill, that the real estate of which the said



Joseph N. Ely died seized be devided as required by said will, but that no partition in kind can be made owing to the large number of parties in interest, and they therefore pray along with the plaintiffs that a sale of all the said real estate shall be made and the proceeds thereof distributed to these respondents and others entitled thereto; that is to say, that the whole proceeds of the said eleven acre tract which was purchased by the said Sarah S. Ely from John T. Hughes, and of the one-hlaf interest of the said Sarah S. Ely in the said twelve acre tract, be distributed among these respondent per stirpes and that one-third of the proceeds of all the other real estate mentioned in said complainants' bill be distributed among these resondents per stirpes, and that the other two-thirds be distributed among the heirs or rather the descendants, of the ten brothers and sisters of the said Joseph N. Ely.

These respondents have filed an answer in a suit brought by John Z. Ely and J.M. Smyth Administrators &c. against Elizabeth J. Pennington and others, now pending in this Court, having for its object the proper construction of the aforesaid will of Joseph N. Ely, in which case the same questions are raised concerning the said eleven and twelve acre tracts as are raised in this cause; and these respondents pray that the answer filed by them in that suit be read and considered as a part of this suit in so far as the same may be applicable to a proper understanding of the matter involved in order that justive may be done among the parties.

And now having answered as fully as they are advised that it is material they should answer, these respondents pray to be hence dismissed with their proper costs in this behalf expended.

C. T. Duncan, and  
J. C. Noel  
Attys for Defts.



J. Z. + Mary P. Ely

vs. { Answer.

J. M. Smyth et als.

Filed in open Court and  
by leave thereof Nov  
15<sup>th</sup> 1900.

A. B. Munsey Clerk



To the Hon.H.A.W.Skeen, Judge of the Circuit court for Lee County:

The joint answer of J.T.Smyth,J.A.Orr,Amada J.Hughes,Mary E.

Cox, H, H, Ely, D, s, Reasor, W. A. J. Reasor, J, G, Reasor, Wallace Reasor,

J.M.Bailey, Amanda E.Olinger, Dora E.Olinger, David W.Smyth, C,D,Bailey,

H.C.Bailey, Rebecca Olinger, Jane S.Barker, Sallie Cecil, Rebecca R.

Cecil, Nancey E. Short, Martha Quillen, I. P. Ely, P. H. Orr, Dollie Pugh,

Charlie Smyth, Emily Newman, Elbert M. Smyth, John M. Smyth, Jr., Hiram Ely

Charles Ely, Amanda Ely, W.S. Ely, James Smyth, James Stewart, Simon

Stewart, Emmet Stewart, Mary Carter, T.P. Smyth, Emmet Ely, Sarah E.

Myers, Susan Z. Young, Joseph Ely, George W. Ely, Sarah Parsons, Lucinda

Parsons, Lettie Shufflebarger, John M. Smyth,

to a bill in chancery filed in this honerable court by John Z.Ely  
and Mary P.Ely against them and others.



These respondents reserving to themselves all just exceptions to the plaintiffs bill, nevertheless answering say:

That they are the descendants of the brothers and sisters of Jos. N. Ely, dec'd. and that their descent from said brothers and sisters is correctly set out in the plaintiffs bill, and also the facts with reference to the ownership of the real estate in the bill mentioned, and the names and present status of the other descendants of the brothers and sisters of the said Jos. N. Ely as well as the names and present status of the brothers and sisters and their descendants of said Sarah S Ely, widow and devisee of the said Jos. N. Ely, and the facts stated with relation to the making of the will of the said Ely are also true, and it is true that a life estate in said real estate was given to the said Sarah S. Ely by the said Jos. N. Ely, and after her death 2-3rds of the same should descend, pass and become vested in these respondents and the other descendants of the brothers and sisters of said Jos. N. Ely, and 1-3rd to the brothers and sisters and their descendants of the said Sarah S. Ely.

These respondents unite with the plaintiffs in the prayer set forth in their bill that this real estate be divided as required by said will, but that no partition in kind can be made owing to the large number of parties in interest, and they therefore pray, along with the plaintiffs, that a sale of all of said real estate shall be made and the proceeds thereof distributed to these respondents and the others entitled thereto in accordance with the prayer of the bill. They say the bill states the facts with reference to the land bought



from J. T. Hughes and wife, to which the title was taken in the name of Sarah S. Ely, and these respondents say that she purchased said land with money derived from the condemnation by the Louisville & Nashville R. R. Co. of the real estate of which the said Joseph died seised, and that the purchase of the Hughes land was but a substitution for the land taken by the railroad company, and that the title was taken by her in her own name without any intention on her part of violating the express terms of the will on this point. She regarded herself, and these respondents say that in law she was, a trustee for the devisees under said will. These respondents say that there is abundant evidence to show that such was her purpose and desire, and even if it were not, they are advised that such was the effect of her re-investment derived from the aforesaid condemnation.

These respondents have filed an answer in a suit brought by John Z. Ely and J. M. Smyth against Elizabeth J. Pennington et al. now pending in this court, having for its object a proper construction of the aforesaid will of Jos. N. Ely, in which case it is possible some of the questions raised may likewise be raised in this cause, and these respondents pray that the answer filed by them in that suit be read and considered as a part of this suit in so far as the same may be applicable and necessary to a proper understanding of the matter involved in order that justice be done among the parties.

These respondents would further show unto your Honor that there are a great many other defendants in this cause having a common interest with these defendants but who are widely scattered, being mostly non-residents of this state and whose



interests would aggregate a large amount, yet to each one is comparatively small. Most of these defendants have not employed counsel and are taking no active part in the defense of this suit, each of them having no actual notice but only constructive notice thereof, but who will share equally with these respondents in the result of this litigation if the prayer of these respondents in the premises be granted. These respondents are advised that said absent defendants should be required by decree of your Honor to contribute ratably to the reasonable and necessary attorneys' fees and other charges necessary in conducting these proceedings, and they pray this be done in the final decrees in this cause.

And now having answered as fully as they are advised it is material they should answer, these respondents pray to be hence dismissed with their proper costs in this behalf expended.

*Remington Bros.  
Or + Irvine.*



John M. Smyth & Co

and <sup>3</sup> Answer

Mary P. Eley & Co

---

Filed in open Court and by  
leave thereof June 11<sup>th</sup> 1900

A. B. Minsey Clerk

E. W. PENNINGTON

ROBT. L. PENNINGTON

Pennington Bros.

ATTORNEYS AT LAW

JONESVILLE AND PENNINGTON GAP VA







These respondents reserving to themselves all just exceptions to the plaintiffs bill, yet answering say:

It is true, as alleged in the bill, these respondents are the descendants of the brothers and sisters of Jos. N. Ely, dec'd. Their descent from said brothers and sisters is correctly set out in the bill, and the bill also correctly sets out the facts with regard to the execution of the will of said Jos. N. Ely, and the acts done after his death by his widow, the said Sarah S. Ely, the general nature and character of the assets left by the said Jos. N. Ely at the time of his death, and by the said Sarah S. Ely at the time of her death. It is also true that the plaintiffs herein John Z. Ely and J. Morison Smith have qualified as the administrators of the estate of said Sarah S. Ely, and it is true, as respondents suppose, that there are three constructions of the will of the said Jos. N. Ely which will be insisted upon in this cause. The bill correctly states, so far as these respondents know, the names and present status of the other descendants of the brothers and sisters of the said Jos. N. Ely, and also the descendants of the brothers and sisters of the said Sarah S. Ely.

Respondents now further answering would say that they are advised, and they here charge and insist upon it, that there is but one correct interpretation of the will in dispute, to-wit: the first interpretation set out by the plaintiffs in their bill, which is that all the <sup>assets</sup> ~~notes~~ now in the hands of said administrators and which will go into their hands as such, should be disbursed by paying out to the brothers and



sisters of Sarah S. Ely, or their descendants, one-third of the net amount thereof, and to the descendants of the brothers and sisters of the said Jos. N. Ely two-thirds of the net amount thereof per stirpes, and they ask that the said personal estate be distributed upon this basis, and that the proceeds of the real estate be distributed in the same way, which, as these respondents believe and charge, must be sold and distributed rather than partitioned in kind.

Respondents would show that the testator Jos. N. Ely started ~~in~~ life as a poor, hard-working young man. Early in life he married said Sarah S. Ely, formerly Pennington. By her he received but little, if any property. She was a fit companion and helpmate to him through life. They labored hard and were economical, and the result was the accumulation of a considerable estate, as is shown by the plaintiffs bill. They had no children, and it was the desire and intention of both the said Jos. N. Ely and Sarah S. Ely for many years prior to the death of the said Joseph that his brothers and sisters should receive 2-3rds of his estate and her brothers and sisters 1-3rd of his estate per stirpes after the death of both the said Joseph and Sarah. That this was for many years the settled determination and desire of both of said parties, there is abundant evidence on all hands. There is also abundant ~~evidence~~ evidence that if the said Sarah S. Ely had died before the said Joseph, his will would have been so made that her brothers and sisters would have received 1-3rd of ~~all~~ his estate, and his own brothers and sisters 2-3rds thereof. It was with the view of carrying out this commendable purpose, and also of giving his wife a life estate in his property,



that this will was made by the said Jos. N. Ely in 1863, 19 years before his death, when he was over 50 years of age, and his wife but a few years younger.

It was further a matter of comment and mutual understanding between the said Joseph and Sarah that as she had three brothers and sisters, or their representatives, and he had ten, the division of his estate in the shares of 2-3rds and 1-3rd respectively would still leave the advantage as to amounts received in her relatives.

The said Jos. N. Ely died at about the age of 70, in the year 1882, as is stated in the plaintiffs bill, and his wife survived him for 18 years, dying at about the age of 83, during the present year. During the 18 years that she survived after his death as well as during the 19 years preceding his death, and after he made his will, it was always her expectation and desire as expressed on innumerable occasions and is shown in numberless acts, that the spirit as well as the letter of her husband's will should be carried out, and that his brothers and sisters and their descendants should receive 2-3rds of all the estate left at the time of her death; that is, 2-3rds of all the estate, both real and personal, which she had, whether claiming the same in her own right or as life-tenant under the will of her husband. These respondents state and charge that she was a prudent, careful and economical woman and managed well the real and personal estate committed to her care by her husband at his death, and that the increment to the same was considerable, and that she added to the value of said estate a considerable amount of personal property, some of which perhaps remained in kind since his death, but much the larger portion of which had changed form



but could still be directly traceable to the personal assets left in her hands by her husband. There can be no doubt as to what the intention of the testator was, or as to the interpretation put upon his will by the said Sarah S. Ely, and that it was the earnest desire of both that the will should be construed and take effect as these respondents ask. These respondents are advised that even on the most technical construction of the said will, the interpretation here insisted upon is the only correct and lawful one, upon reading the will as a whole, that can be reached, and much more is this true when the surrounding facts and circumstances and the conditions that environed these two people are taken into view.

WHEREFORE these respondents pray that they, and those having a common interest with them, be decreed to receive two-thirds of all the estate, both real and personal, which the termination of the life estate of the said ~~Sarah~~ Sarah S. Ely has devolved upon this Court to administer. These respondents would further show unto your Honor that there are a great many other defendants in this cause having a common interest with these defendants but who are widely scattered, being mostly non-residents of this state and whose interests would aggregate a large amount yet to each one is comparatively small. Most of these defendants have not employed counsel and are taking no active part in the defense of this suit, each of them having no actual notice but only constructive notice thereof, but ~~who~~ who will share equally with these respondents in the result of this litigation if the prayer of these respondents in the premises be granted. These respondents are advised that said absent defendants should be required by de-



gree of your Honor' ~~to~~ to contribute ratably to the reasonable and necessary attorneys' fees and other charges necessary in conducting these proceedings, and they pray this be done in the final decrees in this cause. And having answered fully they pray to be hence dismissed.

*Remington Bros*  
*Att & Counsel.*



*J. P. Ely & Co*

*ans  $\frac{1}{2}$  Answer of  
 $\frac{1}{2}$  J. T. Smith et al*

*J. M. Smyth & Co Attors*

*Filed in open Court and  
by leave thereof June 11th  
1900. A. B. Munsey Clerk*

E. W. PENNINGTON.

ROBT. L. PENNINGTON.

**Pennington Bros.**

ATTORNEYS AT LAW.

JONESVILLE AND PENNINGTON GAP, VA.



Smith & Ely adverse

vs.

Elizabeth J. Punnington et al

and

John Z. & Mary P. Ely

vs.

J. M. Smith et al

Exhibits

On motion of the plain-  
tiffs these causes are hereby  
brought on to be heard togeth-  
er. And thereupon these  
causes came on this day to  
be heard upon the papers  
formerly read therein, the  
report of Noel & Punnington<sup>and</sup>  
showing that they had ne-  
gotiated, sold & transferred  
the lands of A. Johnson and  
N. L. Johnson to the Powell  
Valley Land at a discount of  
3%; and the petition of  
J. P. Ely, vs. H. J. Milham  
adverse - et al, exhibits filed  
therewith, and depositions of  
witnesses, and was argued  
by Counsel:

On consideration of all which  
and for reasons appearing to  
the Court, it is adjudged,



ordered and decreed that  
said report of sale and  
transfer of said Johnson notes  
~~be and the~~ to said Farmers  
valley Bank be and the same  
is hereby confirmed to said  
Bank without any means  
on said Noel & Pennington  
or upon the estate of Joseph  
H. and Sarah S. Ely; and said  
Bank or any assignee of it  
is hereby authorized to col-  
lect said notes as they be-  
come due.

And it is further adjudge-  
d, ordered and decreed that  
S. P. Ely recover from H. J.  
Milham admr. of the estate of  
A. J. Ely, it at the sum of  
\$30<sup>00</sup> with interest on \$5<sup>00</sup>  
a part thereof, from the 11<sup>th</sup> day  
of Oct., 1888 till paid; and  
interest on \$25<sup>00</sup> the residue  
thereof from the 1<sup>st</sup> day of Oct.,  
1889 till paid and the costs  
of said S. P. Ely's petition;  
and said Ely & Smith admrs, out  
of the share of the defendants  
in said petition &



in the estate of Joseph M. & Sarah  
S. Ely in their hands will pay  
to said J. P. Ely the amount  
of said recovery & costs, and  
the payment of said adms.  
to said Ely will forever bar  
said parties to said petition  
from recovering such sums so  
paid from said adms. and  
in the event there is not  
enough in the hands of  
said adms to pay said  
J. P. Ely the amount of said  
recovery, then said Noel &  
Dunnington adms. will pay  
the residue out of the funds  
in their hands belonging to  
said defendants in said  
petition.

And it appearing to the  
Court that said Ely & Smith  
as adms &c of said Sarah S. Ely  
died. at the March term ~~1901~~  
1901 recovered from one C. L.  
Hambler a judgment, and  
that said Hamblen has paid  
on said judgment the sum  
of \$100<sup>00</sup> and the costs of said  
suit, as well for a full



satisfaction & discharge of  
the same by way of a com-  
promise, and it appearing to  
be doubtful whether said  
advers. could have collected  
any of said judgment, it is  
adjudged, ordered and decreed  
that said compromise be  
and the same is hereby confirm-  
ed and ratified, and said Ham-  
ble discharged from paying  
any further sum ~~on~~ on said judg-  
ment and said advers. relieved  
of collecting any further sum  
thereon.

And this cause is continued.

Ely & Smith advers  
vs.  
E. J. Hemmington & Co  
and

J. G. May & Co

vs.

J. M. Sneyth & Co

Deceit.

Entered on Chancery  
Order Book No 6 Page  
549 & 550

Enter this  
June 3<sup>rd</sup> 1901  
at a w then



John J. & Mary P. Ely Campbell  
vs.  
J. M. Smyth et al Defts } In Chancery

This cause came on again this day to be heard upon the papers formerly read therein and the report of Cmsrs. E. H. Pennington and J. C. Noel and deeds to Amanda J. Hughes and Francis M. Parsons therewith filed on the 12th day of March, 1901, and was argued by Counsel: On consideration of all which and ~~the~~ said report and deeds being unexcepted to, it is adjudged, ordered and decreed that said report and deeds be and are hereby confirmed; and that Amanda J. Hughes pay said Noel & Pennington five dollars for their services in making said deed and that said Francis M. Parsons pay to said Noel and Pennington five dollars for their services in making him a deed. And this cause is continued.



John Z. & Mary P. Ely

us } Devereaux  
          } Friends

J. M. Smythick et

En. C. B. 6 P 533

Enter this

March 12/1901

HAWTHORN



J. Morrison Smyth and John Z. Ely, Admsrs. &c.

Vs.

Elizabeth J. Pennington et al.

This cause came on this day to be further heard upon the papers heretofore read in said cause and the petitions of C.T. Duncan, and John C. Noel filed in said cause on the 5th day of March, 1901 in open Court and by leave thereof, and was argued by counsel. On consideration of which the Court is of opinion that the prayer of the petitioners should be granted, that <sup>for</sup> the services rendered by them a fee of <sup>10%</sup> ~~on~~ the amount decreed to the heirs of Sarah S. Ely in addition to the certain fee of \$20.00 is only a reasonable fee for the services rendered, but the exact amount not having been fully ascertained said petitioners being willing to accept <sup>three hundred \$300 dollars</sup> a certain sum, to wit: the sum of ~~\$20.00~~ and the Court being satisfied that that sum ~~is~~ less than said commission would amount to; it is therefore adjudged, ordered and decreed that J. Morrison Smyth and John Z. Ely pay to C.T. Duncan and John C. Noel, each the sum of <sup>\$150.00</sup> ~~\$125.00~~ out of the personal estate due and decreed to the heirs at law of Sarah S. Ely, deceased. Said administrators will <sup>take</sup> the receipts of the said Duncan and Noel for said sums which receipt <sup>shall</sup> constitute to them credits in the settlement of their account as administrators as aforesaid; and the decree in favor of C.T. Duncan, guardian ~~aditem~~ for the heirs of Amanda Reason, deceased for 10% on the sum found to be due to them, is by consent of the said Duncan annulled and vacated; It is further adjudged, ordered and decreed that E.W. Pennington, who is, by consent, appointed a commissioner for the purpose, will settle and state the account of said administrators. In said settlement said Commissioner will charge said administrators with all sums which came into, or by the use of reasonable diligence, should have come into their hands, and will credit them by all proper disbursements made by them for which they must produce proper vouchers. In settling said account said Commissioner will allow said administrators to retain in their hands as compensation for their services <sup>to the brothers and sisters or their ~~descendants~~</sup> 5% on the sum, or sums, going <sup>brothers and sisters & their ~~descendants~~</sup> to the heirs of Sarah S. Ely, and 8% commission on the sum or sums going to the heirs of Joseph N. Ely deceased. He will report his action to some future term



of this Court. Said administrator will proceed as fast as possible to disburse the funds in their hands to those entitled thereto and in the proportion in which they are entitled to the same, except as to A.J.Ely, and they will hold the fund due to him in their hands until the further orders of this Court.



<sup>at age 14</sup>  
J. Morrison <sup>Smith</sup>

vs. { Deane

Elijah <sup>at age</sup> J. P. <sup>Smith</sup>

Entered on C.O.B.  
Nov. P.P. 3714572

Enter this leave

Hawthorn

March 7<sup>th</sup> 1901.



J. J. and Mary F. Ely Comptts }  
vs. } In Chancery  
J. M. Smyth et al Defts }

This cause came on again this day to be heard upon the report of sale made by Commrs. E. H. Purnington and J. C. Noel filed herein on the 4<sup>th</sup> day of February, 1901, the petitions of C. J. Duncan and J. C. Noel and was argued by counsel: On consideration of all which and said report of sales being unexcepted to, it is adjudged, ordered and decreed that said report and sales be and are hereby confirmed to the several purchasers mentioned in said report, and said Purnington and Noel will ask of the funds <sup>in their hands</sup> arising from said sales <sup>of this tract</sup> will pay the costs and commissions of sales and the residue as follows ten percent of the net ~~sale~~ price of the tract commonly called the Skram 11 acre bottom to said C. J. Duncan and J. C. Noel and the residue of the <sup>as well as one-half of the net price of the</sup> ~~residue~~ <sup>tract</sup> purchaser price thereof to the heirs of said Sarah S. Ely decd.



and one-third of the net purchase price of all the other lands sold they will pay per stirpes to America Graham, Virginia Garrison's heirs, and Tobias Pennington's heirs, and the other two-thirds of said sales to the ~~same~~ descendants per ~~per~~ stirpes of the ~~the~~ brothers and sisters of said Joseph M. Ely mentioned in his will; and they will repeat their action to court.

And it further appearing to the court that it would be to the interest of all interested in the proceeds of the lands of A. & M. L. Johnson to see the same so the whole fund arising out of the sales of said lands can be disbursed at one time, it is therefore adjudged, ordered and decreed that said Hall and Pennington are hereby authorized to negotiate, sell and assign the two \$1764<sup>00</sup> lands of said A. & M. L. Johnson at a discount, so that ~~that~~ such dis-



count shall not be more than  
three per cent of their face  
value; and in the event of such  
sale and negotiation they are  
hereby authorized to assign said  
bonds to the purchaser without  
recourse upon themselves or  
the estate of said Sarah S. or  
Joseph M. Ely. And in the event  
of no sale of said bonds, when  
they shall become due they  
will collect the same, and  
disburse one-third to American  
Graham, Virginia Garrison's heirs  
and Tobias Pennington's heirs  
and the other two-thirds to the  
~~heirs~~ <sup>brothers and sisters</sup> of  
said Joseph M. Ely mentioned  
in his will or their descendants  
per stirpes, except the share  
of A. J. Ely, (Hiram's son) they  
will hold till a future order  
of the court

And it further appearing to the court  
from said report of sale that F. M.  
Parsons and Amanda J. Hughes have  
paid in full the price of their purchases  
it is ordered that J. C. Noel and  
E. H. Pennington who are hereby appointed



John & Mary P. Ely

vs J. M. Smith  
Confessing Debt

J. M. Smith the Debtor

Entered on Chancery  
Order Book No 6  
Pages 495-6

Entered this  
March 5<sup>th</sup> 1901

H. A. W. Smith

ans. for the purpose, and who will  
make to said Parsons & Hughes deeds  
with Covenants of Special warranty  
to the lands respectively bought by  
them and report their action to Court



John Z. Ely and Mary P. Ely,

Complainants,

vs.

In Chancery,

John M. Smyth, et al.

Defendants.

This cause came on this day to be heard upon the papers formerly read therein and the answer of America Graham et al, and *General Refutation* was argued by Counsel;

On Consideration of all which, and it being agreed by parties plaintiffs and defendants, and the court being of opinion that the land in the bill and proceedings mentioned can not be partitioned <sup>in kind</sup> in a practical and convenient manner, and of opinion that, instead of a partition, a sale of said property and the proceeds thereof distributed ~~among the parties~~ <sup>would be beneficial to all the parties interested</sup> interested in said land according to their respective interests therein, and the respective interests of the parties in said land having been determined in another suit <sup>of</sup> pending in this court entitled "John Z. Ely and J.M. Smyth Adms., vs. Elizabeth J. Pennington et al" (for the construction of the will of Joseph N. Ely), it is adjudged, ordered and decreed that this cause be hereafter heard with said last mentioned cause; and that E.W. Pennington <sup>and J.C. Noell</sup> who ~~is~~ <sup>are</sup> hereby appointed a special Commissioner for the purpose, who after having given thirty days notice of the time, terms and place of sale by written or printed notices posted at the front door of the court house, in the neighborhood of the said land, in the town of Pennington Gap, and at such other places as he may think will advance the sale of the property hereinafter mentioned, and by giving notice thereof for four weeks in the South West Virginian, and after having executed bond before the clerk of this court in the sum of Ten Thousand Dollars, conditioned as the law requires in such cases, shall proceed to make sale of the land in the bill and proceedings mentioned, either by public or by private sale, as he may think best to enhance the sale of said property in the price <sup>thereof</sup> thereof, on a credit of one and two years, except a sum sufficient to pay the costs of this suit and the commissions of sale, <sup>which will be required to be paid down,</sup> and for the deferred payments the said ~~Pennington~~ <sup>Commissioner</sup> will ~~will~~ require the purchaser or purchasers to execute their several bonds for the deferred payments in two equal installments



[illegible]



John Z. Eley & Mary P. Eley

22 <sup>1000</sup> Acres for Sale

John M. Smith sac

Entered O.B. 6  
P. 479-80

Enter this Nov 17  
1900.

Hawthorn



J.M.Smythe and John Z.Ely Administrators,

Complainants,

vs.

In Chancery

Elizabeth J.Pennington, et al.,

Defendants.

This cause coming on again this day to be heard upon the papers formerly read herein and the report of A.M.Goins filed herein on the 3rd day of Oct. 1900, and the depositions and exhibits filed with said report and exceptions filed by America Graham et al by C.T. Duncan and J.C.Noel, attys, not numbered, and exceptions filed by I.P.Ely et al, by Pennington Bros and Orr and Irvine, numbered 1,

2 & 3 respectively, answer of Roland Braunsen, George Braunsen, Josephus Braunsen, Betty Buck nee Braunsen, Lydia Leander nee Braunsen, Rachel, Louisa nee Braunsen, heirs at law of Nimrod Braunsen dec'd by their attorney W.H. Ely -

and was argued by counsel: Upon consideration whereof the court is of opinion that the book of the commissioner of the Revenue of the district in which Joseph Ely, deceased, was assessed for the year 1883 is prima facie evidence of the value of the personal estate of which the said Ely died possessed, but is further of opinion that the total assessment of the personal ~~estate~~ property of said Ely at for said year of \$5440.00 should not be taken as the absolute basis of a decree in this cause, but that the said sum should be increased in proportion as the last assessment against the said Sarah S.Ely in her life time, to wit, the assessment for the year 1899, at the sum of \$8750, was increased by the sale bill and inventory filed in this cause, amounting to \$10252.00 which is approximately 17.18 per cent, and in this respect it is adjudged ordered and decreed that the report of Commissioner Goins be and the same is hereby modified; and from a calculation it is decreed that \$6373.82 shall be taken as the true value of the personal property of which Joseph Ely died possessed, and the difference between this sum and \$10252.00, to wit, the sum of \$3878.18, is decreed upon the present status of the papers in this cause to be the increment added to the said personal estate by Sarah S.Ely, to which latter sum her heirs, as shown in this cause, are entitled, but this sum is to be decreased by \$300.00 of condemnation money and \$25.00 as road money as shown



by the report of Commissioner Goins, which leaves the sum of \$3553.18, net increment; and it is further adjudged ordered and decreed that the heirs of Sarah S. Ely are entitled to so much interest on the bonds and other evidences of debt in the hands of the administrators as had accrued at the time of her death, April ~~xx~~ 11, 1900, and which had not been included by the administrators in the inventory making up the aforesaid sum of \$10252.00; And further it appearing that the estate of Joseph Ely is entitled to 65.34 per cent of the total inventory and sale bill of \$10252.00 and the estate of Sarah S. Ely is entitled to 34.66 per cent of said total sum, it is therefore adjudged ordered and decreed that all costs paid out by the administrators here- in shall be deducted from said two estates, respectively, according to the above named proportions, and further if said sum of \$10252.00 exclusive of interest above decreed to the estate of Sarah S. Ely, shall be increased or diminished by actual collections that may hereafter be made by the administrators then the two estates shall share ratably in such increase or decrease according to the above named proportions of 65.34 % and 34.66 % respectively.

And it is further decreed that said administrators shall receive \$100.00 to pay their attorney's fees for bringing this suit for the construction of the will of Joseph N. Ely, which shall be charged as part of the costs in this cause, and said administrators shall disburse the funds now on hands or which shall be hereafter received by them to those shown to be entitled thereto by the bill and proceedings had in this cause and in accordance with this decree and former orders and decrees herein.

And it further appearing that those legatees of Joseph Ely deceased, who but for his will would be his heirs at law, are numerous and widely scattered, and portion of them infants, and another portion thereof are non residents of this State, and that only a portion of them have answered herein by their own attorneys or by guardian ad libem, and the answer of those who did answer in person prayed that the court should require contribution <sup>from</sup> ~~and~~ all having a common <sup>toward</sup> interest with those who answered in the matter ~~and~~ paying counsel



fees in this cause, and the court deeming such contribution proper under the circumstances of this cause since those parties who have not answered in person and also those infant~~s~~ defendants who have answered by guardian ad litem <sup>shared</sup> ~~derived~~ the benefit of this litigation ratably with those who personally employed counsel, it is, therefore, adjudged ordered and decreed that the administrators are hereby authorized to <sup>deduct</sup> ~~deduct~~ ratably from the shares of all those who would as aforesaid be heirs at law of Joseph N. Ely and who have not answered in person in this cause, which includes those infant defendants who have answered by guardian ad litem, 10% on the first \$500 payable to each person and 5% of the residue of any sums paid to them in accordance with this decree, which sums shall be proper credits in favor of said administrators in their settlements with said parties entitled to the fund in controversy herein.

And it appearing that the said parties who have answered and defended in this cause have done so by the firms of Pennington Bros. and Orr and Irvin, said Administrators are directed to pay the said attorney's fee to said two firms in accordance with the prayer of the answer above referred to, and the fees here decreed shall be in lieu of any fee of the guardian ad litem who answered for the infant defendants, heirs at law as aforesaid of Joseph N. Ely deceased, said guardian ad litem being one of the attorneys in whose favor the above provision is made.

And it further appearing that certain infant defendants have answered by C. T. Duncan their guardian ad litem, it is decreed that said administrators shall pay to the said Duncan as such Guardian ad litem the same fees as are above provided for as to certain heirs at law as aforesaid of Joseph N. Ely deceased, which shall be a proper charge against the shares of said infant defendants in favor of the administrators when paid by them. And this cause is continued.



85 2702  
8 2706  
01 3456

J. M. Smythe & John Z. Ely  
Admrs.

70 } Decree

Elizabeth J. Pennington et al

Entered C. D. B. 6P481H

#2 553. 18

Enter this Nov. 17-1900.

H. C. W. Shum



LEE CIRCUIT COURT

John Z. Ely and J. M. Smythe, Admrs.

vs.

DECREE:

Elizabeth J. Pennington, et al.

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This cause having been argued by counsel before the Judge of this court in vacation at Big Stone Gap, Va., on August 6th pursuant to the decree entered herein on June 11th, 1900, and having been taken under advisement after said argument, and the court being now fully advised, it is decreed as follows:

This cause coming on this <sup>The 10th of August 1900</sup> day to be heard in vacation upon the papers formerly read herein and the depositions of witnesses taken since the decree of June 11th, 1900, and submitted at the argument of this cause on August 6th, and upon exceptions noted to various questions and answers in said depositions, and upon exhibits filed with said depositions, and the argument of counsel; the court is of opinion that it was the intention of the testator Joseph N. Ely as expressed in his will made January 20th, 1863, that ~~he~~ his wife Sarah S. Ely should have the use, control and enjoyment of all his estate, real and personal, for her life so long as she should survive him, with <sup>a</sup> ~~the~~ vested remainder in one-third of said estate, real or personal, as of the time of his death in the brother and sisters of his said wife or the heirs of their body per stirpes, and <sup>in</sup> the other two-thirds <sup>in</sup> ~~to~~ his own brothers and sisters or the heirs of their bodies per stirpes; and that the language of said will read in the light of the circumstances surrounding the testator did not vest in his wife in her life-time, and does not vest in her heirs since her death, a



fee simple in the real estate of which he died seised and title absolute to his personal property; and the court being further of opinion that the heirs of Sarah S. Ely are entitled to have the rents, profits and increments arising from said estate after the death of the testator, if the same can be ascertained. It is, therefore, adjudged, ordered and decreed that A. M. Goins, who is hereby appointed a Special Commissioner for that purpose, shall take an account and report:

First: Of what real estate Joseph N. Ely died seised, *its* nature and location, and whether or not it all remains in kind and, if not, the value of such as has been disposed of as of the time of its disposal.

Second: Of what personal property the said Ely died possessed of all kinds and description, its nature and value as of the time of the death of said Ely.

Third: The increment, if any, to the estate so left by the said Joseph N. Ely in the hands of his wife Sarah S. Ely stated as of the time of her death and the nature thereof.

He shall give notice of the time, place and purpose of his sitting by publication thereof in four successive issues *of* ~~in~~ a weekly newspaper published in Lee County, which publication shall be in lieu of personal notice thereof. He shall reduce to writing all the evidence <sup>*adduced*</sup> ~~attested~~ before him by any of the parties, and return the same with his report, which he will make if practicable to this court at its next regular sitting; and it is further adjudged, ordered and decreed that when the amount and value of the real and personal estate so left by the said Joseph N. Ely shall be ascertained, one-third in value thereof shall be distributed to the brother and sisters *of Sarah S. Ely and the other two-thirds to the brothers & sisters* of the testator Joseph N. Ely as named in his said will, or the heirs of their bodies per stirpes, in accordance with



the provisions of said will. All questions not expressly  
passed upon herein are reserved for future consideration.

H. A. W. Siler,  
Judge of the Circuit  
Court of Lee County, Va.

To the Clerk of the Circuit  
Court of Lee County, Va.



John F. Ely et al's Admrs  
vs } Deceit

Elizabeth J. Pennington et al's

Entered on Chey Order  
Book No 6 Page 423

passed upon herein are reserved for future consideration.  
the provisions of said will. All questions not expressly

Court of the Circuit  
Judge of the Circuit



J. Z. Ely and J. M. Smyth adms.

vs.

Elizabeth J. Huntington et al

} W Chan.

This cause came on this day to be heard upon the bill of the Complainants & exhibits filed therewith; The <sup>joint</sup> answer of J. T. Smyth et al this day filed by ~~the~~ leave of the court, the joint answer of America Graham et al, also this day filed by leave of the court, the joint answer of Fannie Johnson et al, infants under the age of 21 years by James H. Orr their guardian ad litem, the joint answer of Peter Reason et al, infants under the age of 21, by C. J. Duncan their guardian ad litem, the separate answer of Rebecca Weston, the separate answer of H. J. Milham adms. of the estate of Joseph M. Ely decd., with his will annexed, and general replication to each of said answers, and was argued by counsel: On consideration of all which and by consent of all parties appearing and answering in said cause, and for reasons appearing to the court,



from the bill of said cause & exhibits that the defendants served with process and answering bring more than thirty and represent like interest with those who ~~to~~ probably have not been served with process, it is ordered that process as to such if there be any such, be dispensed with and this cause be proceeded with as if such had been duly served with process.

And on the consent of complainants and all those appearing and answering, it is ordered that this cause be heard in vacation at Big Stone Gap, Va on August 6<sup>th</sup>, 1900, and such decision or decree by the judge of this court so entered at said time & place or at any time thereafter in vacation shall be as effective and binding as if made in term time; to which time ~~this~~ & place this cause is continued.



Ely & Smyth aduerso.

vs } Deane No. 1

E. J. Pennington et al

En - on Chy. O.B. No. 406.

Enter this

June 11/1900.

14 a w shen



J. Z. & Mary P. Ely Comfils.

vs.

J. M. Smyth et al orfs

} In Chancery.

This cause came on this day to be heard upon the bill of the Comfils, and exhibits filed therewith, the joint answer of J. M. Smyth et al, the answer of Annie Johnson et al infants under 21 years of age, by J. H. Orr their guardian ad litem, the joint answer of Peter Reaser et al infants under 21 years of age by J. H. Duncan and general replications to each of said answers, and was argued by Counsel. On consideration of all which and by consent of all persons appearing as well as by the consent of the Complainants, it is ordered that this cause be heard in vacation at Big Stone Gap, Va., on August, 6<sup>th</sup> 1900, and such decision or decree so entered or made by the judge of this Court or at any time thereafter in vacation at said time & place shall be as effective and binding as if made in term time; to which time & place this cause is continued.



J. J. & Mary P. Ely

vs. } Green No. 1

J. M. Smyth et al

Env- on C. O. B. Mob. p  
407.

Enter this

June 11/1900.

H. A. W. S. M.



Virginia, Lee County, to wit:

This day John Z. Ely personally  
appeared before me a Notary Public in and for the  
county and State aforesaid and made oath that Elizabeth J. Penning-  
ton, Sallie Trent, John M. Smith, Alexander Smith, Tennessee Smith, Mary  
F. Parsons, Nervie O. Bartlett, Sarah M. Greenwood, Mary A. Cary, Laura  
R. Parsons, William Smith, Sarah Cole, Joseph L. Smith, Sarah J. Parsons,  
Sallie Turner, Fannie Lewis, Lou Anna Caywood, Jane Farley, Louisa  
King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargent, Mary  
Caywood, Jackson Johnson, Sarah Collier, Emily Turner, Vesta Boothe,  
James M. Smith, Cora Smith, Jackson Smith, David Smith, Joseph Branson,  
Henry Branson, Sampson Branson, Richard Branson, Louisa Colly, Rebecca  
Maloney, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons  
Newton Parsons, Fannie Collier, Isaac Ely, John Ely, Hiram Ely, Sarah  
Smith Manervia Bowen, Lide Turner, Georgia Ann Ely, Hiram Ely,  
Jackson Ely, Emily Munsey, Evilen Fletcher, Emory Gilly, Cynthia  
Myers, Thomas Garrison, Daniel G. Simpson, Manervia Humphrey, Rebecca  
Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, and Cass  
Reasor, against whom John Z. Ely and Mary P. Ely

are about to institute suit in equity in the Circuit court for  
the county of Lee, are non residents of the State of Virginia.

And the said John Z. Ely further made  
oath that there are or may be persons interested in said suit but  
whose names are unknown, and who are the heirs of William Smith decd.  
Amanda Howard, decd., Chandler Branson, decd., Nimrod Branson, decd.,  
Oma Hobbs, decd. Emily Moore decd., Laura Harber, decd., Elkanah Ely  
decd., and a portion of those of Barbary ~~Harber~~ <sup>Parsons</sup> decd.,

Given under my hand this the 24 day of April, 1900.

Alfred Ely Not Pub  
Lee County Va



Mary P. Ely, et al.,

vs.: Affidavit for O. of P.

John M. Smyth et al.

#####

Filed April 24" 1900

A. B. Munsey Clerk

MARY P. ELY and JOHN M. ELY



Virginia, Lee County, to wit:

This day John Z Ely personally appeared before me a Notary Public in and for the county and State aforesaid and made oath that Elizabeth J. Pennington, Sallie Trent, John M. Smith, Alexander Smith, Tennessee Smith, Mary F. Parsons, Nervie O. Bartlett, Sarah M. Greenwood, Mary A. Cary, Laura R. Parsons, William Smith, Sarah Cole, Joseph L. Smith, Sarah J. Parsons, Sallie Turner, Fannie Lewis, Lou Anna Caywood, Jane Farley, Louisa King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargent, Mary Caywood, Jackson Johnson, Sarah Collier, Emily Turner, Vesta Boothe, James M. Smith, Cora Smith, Jackson Smith, David Smith, Joseph Branson, Henry Branson, Sampson Branson, Richard Branson, Louisa Colly<sup>e</sup>, Rebecca Maloney, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons Newton Parsons, Fannie Collier, Isaac Ely, John Ely, Hiram Ely, Sarah Smith Manervia Bowen, Lide Turner, Georgia Ann Ely, Hiram Ely, Jackson Ely, Emily Munsey, Evilen Fletcher, Emory Gilly, Cynthia Myers, Thomas Garrison, Daniel G. Simpson, Manervia Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, and Cass Reasor, against whom John Z. Ely and J. Morrison Smith, as administrators of the estate of Sarah S. Ely deceased

are about to institute suit in equity in the Circuit court for the county of Lee, are non residents of the State of Virginia.

And the said John Z Ely further made oath that there are or may be persons interested in said suit but whose names are unknown, and who are the heirs of William Smith decd. Amanda Howard, decd., Chandler Branson, decd., Nimrod Branson, decd., Oma Hobbs, decd. Emily Moore decd., Laura Harber, decd, Elkanah Ely decd., and a portion of those of Barbary <sup>Parsons</sup> Harber decd,

Given under my hand this the 24 day of April 1900.

Alfred M. Smith  
Lee County Va



Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_ 1900.

decd., and a portion of those of Barbary Harper decd.,  
Oma Hobbs, decd., Emily Moore decd., Laura Harper, decd., Elizabeth Ely  
Alvanda Howard, decd., Chandler Branson, decd., Nirted Branson, decd.,  
whose names are unknown, and who are the heirs of Elizabeth Smith decd.,

oath that there are or may be persons interested in said suit but  
And the said \_\_\_\_\_ Juror made

the county of Lee, are non residents of the State of Virginia.  
are about to institute suit in equity in the Circuit Court for

Joint of the estate of Sarah S. Ely deceased

Reasor, against John N. Ely and J. Mortson Smith, as administrators-  
Barton, John Reasor, Peter Reasor, Fannie Reasor, Holl Reasor, and Oren  
Myers, Thomas Garrison, Daniel G. Simpson, Laverne Humphrey, Rebecca

Joseph Ely, Mary Ely, Elizabeth Ely, John Ely, William Ely,

Smith Reasor, Isaac Ely, George Ann Ely, William Ely,

Newton, Parsons, John Ely, Isaac Ely, John Ely, Nitem Ely, Sarah

Malone, P. C. Plaster, Thomas Maxwell, Elizabeth Parsons, Susan Parsons

Horley, Branson, Sarah Branson, Richard Branson, Louisa Golly, Rebecca

James M. Smith, George Smith, David Smith, Joseph Branson,

Gaywood, Jackson, John Ely, Isaac Ely, Emily Turner, Verna Booche,

King, Joseph, Doris Ely, Betbie Grider, Grant Perigout, Mary

Salida Ely, John Anna Gaywood, John Ferley, Louisa

R. Parsons, William Ely, Sarah Cole, Joseph J. Smith, Sarah J. Parsons,

P. Parsons, Norval O. Barfield, Sarah M. Greenwood, Mary A. Gray, Laura

for, Salie Trent, John M. Smith, Alexander Smith, Tennessee Smith, Mary

county and State aforesaid and made oath that Elizabeth J. Pennington

appeared before me \_\_\_\_\_ in and for the

This day \_\_\_\_\_ Personally,

Virginia, Lee County, to wit:

John N. Ely et al. Adms.  
vs. Affidavit for O of P.  
Elizabeth J. Pennington et al.

Filed April 24<sup>th</sup> 1900  
A. B. Manney Clerk



CERTIFICATE OF

~~ORDER OF PUBLICATION~~  
*Special Comm's Notice.*

I, A. M. Goins, Editor of the SOUTH-  
WEST VIRGINIAN, a weekly newspa-  
per published at Jonesville, Lee County,  
Va., do hereby certify that the annex-  
ed notice was published in said paper  
once a week for four successive weeks,

commencing on the 16<sup>th</sup> day of

*August*, 1900

*A. M. Goins*, EDITOR.

FEE, \$10.00  
1.00

SPECIAL COMMISSIONER'S NOTICE.

JOHN Z. ELY and J. M. SMYTHE,  
Administrators,

Vs.

ELIZABETH J. PENNINGTON et al.

In Chancery.

In the Circuit Court of the County of Lee.

TAKE NOTICE THAT,

Pursuant to a decree in the above styled  
cause, in vacation, August 10th, 1900, I  
shall, on the 10th day of September, 1900,  
at my office in the town of Jonesville, in  
the county aforesaid, proceed to inquire  
into and make the statements and investi-  
gations, and report upon the matters and  
things mentioned in said decree, and there-  
by referred to me as Special Commissioner  
in said cause.

Especially am I directed to hear evidence  
and report upon the following matters:

1st, Of what real estate Joseph N. Ely  
died seized, its nature and location, and  
whether or not it all remains in kind, and  
if not, the value of such as has been dis-  
posed of, as of the time of its disposal.

2nd, Of what personal property the said  
Ely died possessed, of all kinds and de-  
scriptions, its nature and value as of the  
time of the death of said Ely.

3rd, The increments, if any, to the es-  
tate so left by the said Joseph N. Ely in  
the hands of his wife, Sarah S. Ely, stated  
as of the time of her death, and the nature  
thereof.

I am directed by the foregoing decree  
to give notice of the time, place and pur-  
pose of my sitting by publication thereof  
in four successive issues of a weekly news-  
paper published in Lee county, which pub-  
lication shall be in lieu of personal notice  
thereof, and I am also directed to reduce  
to writing all the evidence adduced before  
me by any of the parties, and to return the  
same with my report, which I am directed  
to make if practicable to the court at its  
next regular sitting.

All parties interested in the foregoing  
proceedings will take due notice thereof  
and be governed accordingly.

This August 15, 1900.

A. M. GOINS,  
Special Commissioner.



Court's Notice.

~~ORDER OF PUBLICATION.~~

John Z. Ely & J. M. Smythe, Admsrs.

VS.

IN CHANCERY.

Elizabeth J. Pennington et al.

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FEE \$10 <sup>00</sup>/<sub>100</sub>



DEPOSITIONS.

John Z.Ely and J.M.Smythe, Admrs.,	)	
vs.	)	IN CHANCERY.
Elizabeth J.Pennington et al.	)	

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The depositions of F.B.Cox and others, taken before me, A.M. Goins, Special Commissioner in the above styled cause, pursuant to notice hereto affixed, headed "Special Commissioner's Notice", at my office in the town of Jonesville, Va., on the 10th day of Sept., 1900, the place and time designated in said notice, and on subsequent days by adjournment from day to day at the same place, up to and including Sept. 14th, 1900, to be read as evidence in a certain suit in chancery depending in the Circuit Court of Lee county, Va., and now before me as Special Commissioner for the purposes set out in the decree of said court of August 11th, 1900, wherein John Z. Ely and J.M.Smythe, Admrs., are plaintiffs, and Elizabeth J.Pennington et al., are defendants.

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(See Next Page.)  
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SEPTEMBER 10, 1900.

Present: J.C.Noel, atty. for America Graham et al.  
 " J.W.Orr & R.L.Pennington, attys. for the Ely heirs et al.  
 " J.W.Orr, Guar. ad Litem for Fannie Johnson et al.

In regard to the amount of real estate owned by Joseph N.Ely at the time of his death, it is admitted by the attorneys for the parties that Joseph N. Ely owned at the time of his death what was known as the Home Place, a tract of land purchased of different ~~of different~~ parties, containing about 138 3/4 acres; also another place known as the Lower Place, being the same land that was laid off to him in the partition of the estate of his father, Joseph Ely, and which said tract is said to contain 75 acres; also said Joseph N.Ely owned jointly with his wife a small 12 acre tract, conveyed to them by G.W.Hughes and wife, and which adjoins the said home place. (See Deed Book 15, page 648). And it is admitted further, that all of said land remains in kind, except a strip containing  $6\frac{24}{100}$  acres condemned for the right of way ~~for~~ the L. & N. railroad out of the land owned individually by the said Joseph N.Ely, for which right of way the said Sarah S.Ely received the sum of ~~\$325.00~~  $\$325.00$  (See Condemnation proceedings in the County court).

..... J.C. Noel, atty.  
 ..... James W. Orr, atty.  
 ..... R.L. Pennington for Pennington Bros. attys

F.B.Cox, a witness of lawful age, being first duly sworn, deposes and says:

Ques. 1. Please state your age, residence and occupation.

Ans. 1. I am 61; I live on Dry Branch, Lee county, Va.; and am a farmer.

Ques. 2. Were you acquainted with Joseph N. Ely in his lifetime?

Ans. 2. I was.

Ques. 3. Please state, if you know, when the said Joseph N.Ely died.

Ans. 3. It is my information ~~is~~ that he died Dec. 11, 1882, and it is recorded that way in the old family bible.

Ques. 4. State, if you remember, when Sarah S.Ely his wife died.

Ans. 4. April 12, 1900.

~~XXXXXX~~ And further this deponent saith not.

F. B. Cox

Witness,  
50 cts



B.M.Morgan, a witness of lawful age, being first duly sworn, deposes and says:

Ques. 1. What official position, if any, do you hold in the county of Lee?

Ans. 1. I am Clerk of the County Court.

Ques. 2. As such, are you the custodian of the records of said office?

Ans. 2. I am.

Ques. 3. Are the property books, in which the assessment of taxes on personal property is ~~never~~ entered, ~~as part of the records of your~~ ~~office~~ kept on file among the records of your office?

Ans. 3. They are.

Ques. 4. Are you, as said clerk, in possession of the property book for the year 1882, for the Rocky Station and Yokum Station assessors' districts?

Ans. 4. I am.

Ques. 5. In that book do you find Joseph N.Ely, of Dry Branch, assessed with any personal property; and if so, please state the kinds and amounts of said property, together with the assessed value thereof?

The foregoing question and any answer thereto is objected to because incompetent, irrelevant, immaterial and inadmissible.

R.L.Pennington and J.W.Orr, Attys.

Ans. 5. I do; on page 5, line 13, I find him charged with four head of horses, valued at \$250; eight head of cattle, valued at \$135; six head of sheep, valued at \$6; nineteen hogs, valued at \$30; one wagon &c., valued at \$25; farming implements, valued at \$25; one clock, valued at \$2; one sewing machine, valued at \$20; house-hold and kitchen furniture, valued at \$100; value of fire arms and weapons, \$4. The aggregate value of the foregoing is \$597. I also find on the same page and line of said book, under schedule "C", the value of notes, bonds &c. assessed at the value of \$4251 to the said Joseph N.Ely. Making a total of all personal property assessed to the said Joseph N.Ely for that year of \$4848.

Ques. 6. I will ask you to file with your deposition an attested copy of the assessment of the said Joseph N.Ely, as shown by the records of your office for the year 1882, giving the kinds, numbers and values



of all personal property so assessed to the said Joseph N.Ely. [Mark said copy "Morgan No.1"]

Objected to for the reason state in the preceding objection.

R.L.Pennington and J.W.Orr, Attys.

Ans. 6. I will file same marked as requested.

Ques. 7. As clerk of the said county court, have you in your possession the property book of the Rocky and Yokum stations<sup>dist</sup>, or commissioner's district No.3, for the year 1883?

~~Ans. 7.~~ Objected to for the reasons stated in the foregoing objections.

R.L.Pennington and J.W.Orr, Attys.

Ans. 7. I have.

Ques. 8. Please read from said book the kinds, numbers and values of all the personal property with which Sarah S.Ely, of Dry Branch, was assessed for the year 1883.

Objected to for the reasons stated in the foregoing objections.

R.L.Pennington and J.W.Orr, Atty.

Ans. 8. I find on page 5, line 15, on said book, that the said Sarah S.Ely, of Dry Branch, is charged with five head of horses valued at \$225; seven cattle valued at \$100; four sheep valued at \$4; fifteen hogs valued at \$25; wagons &c. valued at \$30; farming implements valued at \$20; one clock valued at \$2; one sewing machine valued at \$20; house hold property valued at \$100; fire arms valued at \$4.

The total valuation of the property under this schedule is \$530.

I find also on the same page and on the same line of the same book under schedule "C" that the said Sarah S. is charged with solvent notes, bonds &c. of \$4910. Making a grand total under both schedules of \$5440.

Ques.9. Please file with your deposition an attested copy of said books for the year 1883, in so far as the property of said Sarah S.

Ely in concerned, and mark same "Morgan No.2".

Ans.9. I will file same marked as requested.

Ques. 10. Please file an attested copy of the inventory of the Administrators of Sarah S.Ely, as approved by the Commissioner of Accounts, now on record in your office; also an attested copy of the sale bill of the said administrators of the said Sarah S.Ely's estate, which is on record in your said office.

Valuers  
claims  
50 cts.

*Some objection is above, - R. L. Pennington James W. Orr, attys.*



Ans. 10. I will file copies of the above as requested, and mark same "Morgan 3 & 4".

...*B. M. Morgan*.....

America Graham, a witness of lawful age, being first duly sworn, deposes and says:

Ques. 1. Please state your age and residence.

Ans. 1. I am 70 years old, and live near Pennington Gap, Va.

Ques. 2. Were you acquainted with Joseph N. and Sarah S. Ely, the parties mentioned in this suit, in their life time

Ans. 2. I was.

Ques. 3. Are you a relative of either one of them; and if so, which?

Ans. 3. I was a sister of Sarah S. Ely.

Ques. 4. Where did Joseph N. and Sarah S. Ely reside in their life time?

Ans. 4. Since they went to house-keeping they resided on Dry Branch, Lee County, Va., Rocky Station, Dist.

Ques. 5. In the year 1882, did any other Joseph N. Ely live on Dry Branch, in this county?

Ans. 5. None that I know of.

Ques. 6. In the year 1883, and from then on up to this time, did any other Sarah S. Ely live on Dry Branch, this county?

Ans. 6. None that I know of. There were other Sarah Elys, but I do not know as to the letter in the names.

Ques. 7. Did you know any thing about the household and kitchen furniture of Joseph N. Ely at the time of his death?

Ans. 7. I did.

Ques. 8. Were you at the sale of Sarah S. Ely after her death?

Ans. 8. I was.

Ques. 8. State whether the property ~~was the same that was there at the time of the death of Joseph N. Ely~~, I mean the household and kitchen furniture, was the same that was there at the time of the death of Joseph N. Ely?

Ans. 9. My recollection is that it was pretty well the same, with the exception of a set of silver knives and forks.

Ques. 10. Did Sarah S. Ely in her lifetime sell any of the household and kitchen furniture left by Joseph N. Ely at the time of his death?

*Witness  
claims  
5-0-02*



Ans. 10. None that I ever knew of, unless it was an old stove. I don't think she ever sold any of it off.

~~XXXXXXXXXXXX~~ Cross-Examined.

Ques. 1. Do you mean to state from your recollection of the property which Joseph N.Ely had at the time of his death that it was the same as that left by his widow Sarah S.Ely, with the exception mentioned, or is your statement only an opinion or belief that it was the same?

Ans. 1. ~~From~~ From being at the place before and after his death, and at the time of her death, and observing the property about the household, it looked to be about the same.

And further this deponent sith not.

*America Graham*

.....

Mrs. Mary P.Ely, a witness of lawful age, being first duly sworn, deposes and says:-

Ques. 1. State your age and residence.

Ans. 1. I was 49 last month; I live near Pennington Gap, Lee <sup>the</sup> conty.

Ques. 2. Were you acquainted with Joseph N. and Sarah S. Ely in their life time?

Ans. 2. I was.

Ques. 3. How close did you live to Joseph N.Ely at the time of his death?.

Ans. 3. About a mile and a half.

Ques.4. Were you acquainted with the household and kitchen furniture of Joseph N.Ely at the time of his death?

Ans. 4. I ~~did~~ *did*.

Ques.5. Did you know the household and kitchen furniture that was sold at Sarah S.Ely's sale?

Ans. 5. I did.

Ques.6. State whether the property that was sold at her sale was the same property, or practicably the same, that was there at the time of the death of Joseph N.Ely?

Ans. 6. It was practicable the same; some things had given out and had been replaced.

*Witness  
50 cts*



Ques.7. Please state such things that you know of that had been replaced.

Ans. 7. I remember of a <sup>+</sup>sove, some dishes, water vessels, made some bed clothing and one bed--I do not remember all. I remember a set ~~of knives and forks~~ of knives and forks and a butter knife. This was the set of knives and forks that was bought by Filmore Litton at the sale.

Ques.8. State what you know about the number of live stock, the quality and kind left by Joseph N. Ely at the time of his death, and what became of the same.

Ans. 8. There ~~were~~ <sup>✓</sup>three horses at the time of his death that I remember of, one of these was a black mare, which was kept by Sarah S. Ely up to the time of her death and sold at her sale to Emmett Cox; ~~there~~ was a young bay mare which was sold by Sarah S. Ely to my brother John H. Pennington; there was also a roan horse. These are all the horses that I remember of.

~~And further~~

Cross-Examined.

Ques 1. You state in your examination in chief that Mrs. Ely made some bed clothing and one bed that was not ~~on~~ <sup>on</sup> hand at the time of the death of Joseph N. Ely, do you know of Mrs. Ely giving to any one any beds or bedding after the death of Joseph N. Ely?

Ans. 1. I do not know of my own knowledge, but I have heard in the neighborhood that she gave Robt. L. Graham's wife a bed and bed clothing and some things, but I never heard her say so.

The above answer in so far as it states what the witness heard talked of in the neighborhood, is objected to, because hearsay evidence and irrelevant.

J. C. Noel, Atty. & c.

Re-Examined.

Ques. 1. State whether or not Robt. L. Graham's wife was not raised by Mrs. Sarah S. Ely?

Ans. 1 She was a little girl at the time she went there and she raised her up to the time of her marriage, and treated her as one of her family, and that is the reason that I supposed that she gave her the bed, ~~the~~ and I had heard others say that she had given her the bed, and the bed was the one that Mrs. Ely had made.

And further this deponent saith not.

Mary P. Ely



The copies requested to be filed by B.M.Morgan marked "Morgan 3 & 4" <sup>are</sup> now filed, to which the following exception was made:

The copies marked "Morgan 3 & 4" are excepted to as incompetent, and inadmissible, <sup>also because</sup> and not tending to prove the issue, the sale being on time to Jan. 1, 1901.

R.L.Pennington and J.W.Orr, Attys. &c.

-----  
Hram Ely, a witness of lawful age, being first duly sworn, deposes and says:

Ques. 1. State your age, residence and occupation.

Ans. 1. I am 53; live at Tide, Va.; and am a farmer.

Ques. 2. Were you acquainted with Joseph N.Ely and his wife Sarah S.Ely in their lifetime?

Ans. 2. I was.

Ques. 3. Did you know any thing about the live stock and any personal property of Joseph N.Ely at the time of his death?

Ans. 3. I knew in part, I can't say I knew all about them.

Ques. 4. Did you know the live stock, such as horses, cattle, sheep, hogs &c?

Ans. 4. I knew of <sup>a</sup> black mare, a yellow mare, and a gray mare, and my impression is that there was also a yearling or a two year old bay filley there. The cattle I do not remember, except a yoke of steers. I remember some hogs but I do not know how many.

Ques. 5. State what you know about what became of the horses?

Ans. 5. The gray mare died, the yellow mare James Spangler brought to Jonesville and swapped her off, the ~~horse~~ horse that Spangler got ~~that horse~~ was sold by Sarah S.Ely for \$40. Spangler was staying with Mrs.Ely at the time. The black mare Mrs. Ely kept until Mrs.Ely died, and she was sold at the sale. The bay filley she kept up to about a year before she died and sold her to John H.Pennington.

~~and~~ Mrs. Ely sold the steers, but I do not know who she sold them to or what she got for them.

Ques. 6. Do you know any thing about the other personal property left by Joseph N. Ely at the time of his death?

Ans. 6. I know something about it.



Ques.7. Were you present at the sale of Sarah S.Ely's property after her death?

Ans. 7. I was.

Ques.8. I hand you an attested copy of the sale bill of Sarah S.Ely's property, please point out and name such articles as were owned by Joseph N.Ely at the time of his death, together with the name of the purchaser, and the amount for which said articles sold.

Am Objected to as incompetent and inadmissible.

R.L.Pennington and J.W.Orr, Attys.

Ans. 8. I see on said sale bill the following articles that were owned by the said Joseph N.Ely at the time of his death: one box of old irons, burchased by R.W.Orr for 10¢; three boxes of old irons, part of them I have no doubt were there at the time of his death, sold to F.B.Cox for 80¢; one loom and fixtures sold to F.B.Cox for 65¢; one large spinning wheel bought by same for 50¢; warping spools bought by same for 20¢; one black mare sold to Emmett F.Cox for \$18.25; one claw hammer &c. sold to F.B.Cox for 10¢; three dishes and butter plate sold to F.B.Cox for 50¢; pitcher and tumblers to Emmett F. Cox for 36¢; one whet<sup>c</sup> stone sold to F.B.Cox for 10¢; one lot of ~~h~~hovels and mattock sold to John J. Carter for 5¢; three ~~hells~~ <sup>hells</sup> and two reaphooks sold to James S.Parsons for 15¢; three old mowing <sup>c</sup> ~~si~~thes sold to F.B.Jessee for 60¢; one box of horse ~~h~~hoeing tools sold to F.B.Jessee for 65¢; one small spinning wheel sold to F.B.Jesse for \$1.35; old hames, chains and straps sold to same for 20¢; three old hay forks sold to same for 90¢; one ~~b~~ brass kettle sold to same for \$1.45; one cradle and <sup>c</sup> ~~sy~~the sold to John Z.Ely for \$2.75; one bed and bed sted sold to same for \$14; one pare of balances sold to same for \$1.60; one rifle gun sold to same for ~~\$2~~.80; one bed and sted sold to John H.Pennington for \$18.25; one picture sold to same for \$1.00; one reel sold to John T.Hughes for 30¢; one lounge bed to John T.Hughes for 50¢; one mirror ~~for~~ to J.T.Hughes for 15¢; one doz. silver spoos<sup>a</sup> to T.M.Smith for \$1.72; one pot &c. sold to J.M. Smith for 15¢; one baker and lid sold to Joseph Ely for 30¢; one other baker and lid sold to same for 25¢; one table and cloth sold to Joseph Ely for 25¢; one barrel sold to Hiram H.Ely for 20¢; one chest to same for \$2.40; one clothes wire and dog irons to same for



45¢ and 75¢; two bee stands to Chas. Short for \$7.20; two bee stands to W.T. Gilley for \$6.15; ~~two~~ one blanket sold to E.R. Garrison for \$1.60; one bed and sted sold to same for \$7.50; one Bible sold to E.R. Garrison for 75¢; one bed and sted sold to Geo.W. Smith for \$10; plow gears and steelyards to E.R. Garrison for 50¢ and 30¢; one table cloth ~~and expists~~ sold E.P. Garrison for 50¢; one bed and sted sold Thos. Johnson for \$11.00; three augres sold to Thom. Johnson for 65¢; one wagon to Creed Gilley for \$17.15; one chest to A.M. Olinger for 85¢; eight chairs and sewing machine to same for \$2.55 and \$13.50; one safe and top to same for \$8.60; one harrow to same for \$3.00; tow counterpains to M.F. Litton for \$2.85; one dozen bags to same for \$1.20; tea cups and saucer and tumblers sold to J.G. Reason for 25¢ and 20¢; shovel and mattock and seive sold to N.S. Cox for 35¢ and 45¢; one hand saw to same for \$1.10; three old bells and two reep hooks sold to Geo. Ely for 10¢; two wedges sold same for 20¢; one cradle and scythe to A.J. Ely for 95¢; four old bridles to same for 35¢; one bed quilt sold same for \$2.05; sythe, cradle, snathe sythe sold to Elbert Myres for \$1.50; three augres and chisel to Henry Jackson for 50¢; one half-bushel sold to A.J. Reasor for 20¢; one pot and wash tub to Richard W. Ely for 70¢; andirons, trunk, five chairs sold to R.W. Ely for 21¢, 54¢ and 55¢; one half bushels and two sacks sold S.T. Coldiron for 75¢; one hand saw to J.P. Kelly for 10¢; two bed quilts to Tom. Lunsford for 30¢; old kettle and cubbord to James H. Ely for \$1.10 and 10¢; 10 hoes and grind stone, 47 ¢; Cutting knife, one box, 25¢ Robert M. Smith; Pickle stand and 4 quilts to Susan Smith, \$4.87; Tone Williamson, 3 bee stands \$8.80; 1 pr. of old gearing, William H. Wax, 23¢; old plow and stock to Alex. Carnes, 50¢; chain and double trees \$1.50, to S.W. Olinger; one blanket, baker and lid to Henry Myres for \$1.30 and 10¢; counterpain and brass kettle to M.E. Orr for 60¢ and 35¢; four sheets to W.M. Bailey for 65¢; four sheets to D.S. Reasor for 85¢; two chairs, + cubbord to Geo. H. Myres for 60¢ and \$3.40; one sausage mill to same for 70¢; one quilt to Sarah E. Myres for \$1.40; two chairs to F.F. Belcher for 55¢; one clothes brush to D.H. Howard for 30¢; sheep shares to Geo. Smith for 60¢; one small brass kettle Sarah A. Ely for 25¢; table and pan to same for 20¢; one cross-cut saw to John H. Ely for 35¢;



saddle bags to James Spangler for \$2.15; two jugs to L.B.Ely for 10¢; fire shovels to Phoebe Graham for 17¢; baker &c. to Henry Myres for 10¢; pillow slips, blanket to E.I.Stewart for 15¢ and 15¢; one sad-iron to Jas.P.Ely for 10¢; buckets, pans, cups and knives to L.W.Myres for 15¢ and 50¢; one tray to Louise Ely, 20¢; clock same, ~~25¢~~ \$1.00; clock \$1.00 and chairs 5¢ to same; table to H.G.Ely, 10¢; window curtains to W.I.Yeary, 10¢; pillow slips to same, 16¢; one dish, cups and saucers to Lee Gibson, 20¢ and 15¢; salt set to H.B.Graham, 5¢; one mirror to Sarah A.Ely, 12¢; dish and sugar bowl, Sam R.Cox, 15¢; plates, bowls and dish to John B.Ely, 12¢; four pales to J.M.Smith for 21¢; one churn to John Kirk, 80¢; table to same. \$1.45; sifter to Mary Pennington, 10¢; hackel and bucket to Tennessee Smith, 10¢; tubs to Louise Ely, 10¢; satchel to Jane Ely, 15¢; book to W.S.Ely, 10¢; wool cards and <sup>cards</sup> shares, A.H.Zion, 5¢ and 40¢; six pillow slips to J.M.Smith, 38¢; picture and flax to J.Z.Ely, 5¢ and 20¢; table to Sarah A.Ely, 95¢; candle moulds to F.B.Cox, 6¢; plow beam and handles to I.P.Ely, 25¢; lounge bed, tick and quilt to Geo.Peters, \$2.25; plates to Chas.Ely, 5¢;

Ques.9. Please point<sup>m</sup> out, and call from said sale bill such articles sold at said sale which were not owned by Joseph N.Ely in his lifetime, together with the price paid, and the name of the purchaser thereof.

Ans. 9. First red cow to Robt.W.Orr, \$45; ~~two~~ bacon hams 50lbs to same, \$6.37; two bacon hams same, 39lbs, \$6.25; two crocks and lard to F.B.Cox, 10¢; coffee boiler and cup to same, 23¢; one glass lamp to Emmett Cox, 15¢; one bacon side 44lbs. to F.B.Cox, <sup>\$6.25</sup> \$5.28; one bacon ham 26 lbs. to same, \$3.31; 25 lbs to same, \$2.38; fifth lot of 25 bu. corn to same, \$17; balance of corn in large crib to same, \$8.45; second red cow to John J.Carter, \$31.30; 98 lbs flower to James S.Parsons, \$2.20; 49 3/4 lbs. bacon to same, \$6.35; 47 1/2 lbs. side bacon to same, \$5.94; blacking brush to Jeff B.Jessee, 5¢; one bucket to same, 70¢; soap to J.Z.Ely, \$1.45; honey to same \$4.35; three yds. of flannel to same, 60¢; bucket to same, 12¢; soap to same, \$2.65; seed ~~power~~ to same, 50¢; syringe to same, 25¢; corn planter to J.H.Pennington, 40¢; hay stack to J.H.Pennington, \$11; sled and pailings to same, 26¢; ceiling to J.T.Hughes, \$1.75; cross-



tie wood to same, 30¢; shucks to same, \$1.20; 55 lbs. bacon to same  
 \$6.60; 25 lbs. lard to same, \$2.50; eight and one-twenty-eighth  
 bu. of corn to same, \$5.09; soap to J.M.Smith, 40¢; molasses to same,  
 36¢; jelly to same, 10¢; 5 bu. wheat to Joseph Ely, \$3.95; 15 bu.  
 wheat to same, \$12.15; boards to same, \$6.35; shingles to same, \$2;  
 50 lbs. lard to same, \$4.75; vinegar to Hiram H.Ely, \$1.00; 47 lbs  
 bacon to same, \$5.64; 26 lbs hams to same, \$3.25; 14 11/14 bu. corn  
 to same, \$8.87; 30 doz. oats to W.T.Gilley, \$5.70; 14 bu. shattered  
 corn to same, <sup>\$5.04</sup> \$5.04; gray mare and colt to M.K.Grayham, \$82.50; gray  
 horse to J.H.Grayham, \$76.50; third red cow to Fred P.Brooks, \$25.60;  
 9 hogs to J.H.Wilson, \$32.30; ~~apple butter to same, \$1.00; four hens and chickens same, \$1.35;~~  
 two bed covers to C.E.Johnson, \$1.75 and \$1.05; 185 lbs. chickens  
 to Bailey and Feltner, \$10.64; 2 quilts to E.R.Garrison, \$1.80;  
 apple butter to same, \$1.00; four hens and chickens same, \$1.35;  
 side of bacon 47 lbs. to same, \$5.64; 17 bu. corn to same, \$7.30;  
 pistol to same, \$1.05; 42 doz. oats to Tom Johnson, \$8.40; 5 table  
 cloths to same, \$1.68; wood to Creed Gilley, \$3.55; 25 bu. corn to  
 same, \$16.75; Oliver plow to Ad.M.Olinger, \$6; side saddle to M.F.  
 Litton, \$13.50; silver knives and forks to same, \$1.80; cook stove  
 and vessels to J.G.Reason, \$13.60; 25 bu corn to Tennessee Smith,  
 \$17.50; 55 lbs. of bacon sides to A.L.Tritt, \$7.10; 161 lbs. bacon  
 sides to Chas.Garrison, \$20.12; 51 lbs. bacon sides to Tenn. Smith  
 \$6.38; 42 lbs bacon sides to I.P.Ely, \$5.25; 24 lbs ham to same,  
 \$3.06; one chamber to same, 15¢; one table cloth to same, \$1.10;  
 25 bu. corn to J.P.Kelly, \$18.75; 25 bu. corn and 25 bu. corn to  
 W.M.Stewart, \$34.75; 5 bu. potatoes to Jas.P.Ely, \$2.50; 4 Bhovels  
 to N.S.Cox, 60¢; frying pan to Geo.Ely, 35¢; one lamp to Geo.W.Ely,  
 20¢; two padlocks to A.J.Ely, 12¢; three joints stove pipe to Henry  
 Jackson, 25¢; basket to A.J.Reason, 60¢; corn planter to R.W.Ely,  
 25¢; seed and broom to J.P.Kelly, 3¢ and 5¢; soap to Thom.Lunsford,  
 \$1.35; sow to same, \$5; double plow to R.W.Smith, \$1.65; wheel bar-  
 row to Tome Williamson, \$1; one heifer to G.W.King, \$15.30; one  
 plow and stock to John Rivers, \$1; honey to Chas.Wahome, \$1.65;  
 eight filled fruit cans to H.F.Kilburn, \$1.20; two quilts to Joe  
 Brewer, \$1.25; two blankets to Z.M.Cecil, \$4; two baskets to D.S.



Reasor, \$1; saddle blanket to Geo.H.Myres, 40¢; 16 yds domestic to J.D.Russell, <sup>\$1.05-</sup>\$1.05; large spoon to Jane Trett, 12¢; one slop bucket to James Spangler, 18¢; one skillet, tea cups and saucers to Mary Kelly, 10¢ and 65¢; bread and pie pans to Phoebe Graham, 11¢; preserve and desert dishes to same, 21¢; one pair check lines to Henry Myres, \$1.55; brooms to James P.Ely, 10¢; yarns, bottles &c. to L.W.Myres, 30¢; umbrella to same, 18¢; dipper to Louisa Ely, 5¢; one padlock to same, 10¢; lantern and 25 lbs. lard to H.G.Ely, 15¢ and \$2.50; 24 doz. oats to same, \$4; plates to L.M.Zion, 36¢; lard to S.L.Parson, 25<sup>cts</sup>¢; two glasses of jelly to H.C.Ely, 15¢; lamp to same, 25¢; book to same 15¢; oats to same 25¢; spoon-holder to Bettie Reasor, 10¢; baking powders to Sarah A.Ely 12¢; two bacon joints 26¢, A.L.Tritt; Soap, ropes and seven bushels of corn to J.M.Smith 11¢, 05¢, \$4.55; two baskets to Add M.Olinger 70¢; hand towels to A.H.Zion, 30¢; oil and paint to J.M.Smyth 20¢, 15¢; whip, stove wood to J.P.Hughes, 10¢, 25¢; oats corn and hay, to F.B.Cox, \$2.22; candles, brooms to Creed Gilly 10¢, 05¢; 41 doz. oats to Harvey Barton \$6.83; one sack to Wm.Snaveley 10¢.

The other things mentioned in the bill of sale not itemized in my answers to this and the preceding question I cannot say whether they were owned by Joseph N.Ely in his life time or not.

Ques 10. In your answer to question 4 you say that you do not remember the cattle except the yoke of steers owned by Joseph Ely at the time of his death, please state now after thinking over the matter whether you had your memory refreshed concerning any of the cattle owned by <sup>him</sup> Joseph N.Ely at the time of his death; and if so, state what other cattle he owned that you remember?

Ans. 10. I remember ~~that~~ <sup>to</sup> one cow that he owned at his death was given by Sarah S.Ely Robert Graham's wife.

Ques.11. Please state what you consider a fair cash value for the cow you speak of which was given to Robert Graham's wife, at the time of Joseph N.Ely's death.

Ans.11. I think it would have been worth \$30.00.

Ques.12. Please state what you consider a fair cash value for the yoke of cattle that you have spoken of at the time of the death of



Joseph N.Ely?

Ans.12. I think they could have been sold at that time for \$120.00

Que.13. Please state what you consider a fair cash value per head for the sheep owned by Joseph N.Ely at the time of his death?

Ans.13. I would consider them worth \$2.00 per head.

Ques. 14. Please state what you may recollect about the roan horse spoken of by Mary P.Ely in her deposition in this cause?

Ans.14. My recollection is that said horse was disposed of by Joseph N.Ely before his death, but I might be mistaken in this, but if the horse was there at the time of Joseph N.Ely's death I would consider him worth from \$75.00 to \$80.00.

Ques.15. At the time the bay mare spoken of by you was traded to John H.Pennington by Sarah S.Ely, what would you consider to be a fair cash value for her?

Ans. 15. From \$25.00 to \$30.00.

Ques.16. Judging from your recollection of the bay mare at the time of Joseph N.Ely's death, what would have considered a fair cash value of her at that time?

Ans.16. About \$50.00.

Ques.17. State whether you remember any other personal property at the time of his death that came into the hands of his widow Sarah S.Ely, which has not been mentioned in your deposition; and if so state what it was and all you may know about it?

Ans. 17. There ~~was~~ <sup>were</sup> some hogs that came into her hands at his death, but I do not know how many. I know of no other personal property.

Ques. 18. Judging from your recollection of the hogs spoken of by you in the above answer, what do you consider would have been a fair average cash value per head?

Ans. 18. I would say \$2 per head.

~~xxx~~

Cross-Examination.

Ques. 1. ~~Was~~ <sup>More</sup> the more or less personal property on hand at the time of Joseph N.Ely's death or at the time of Sarahs S.Ely's death?

Objected to because the witness has already pointed out from the sale bill all the personal property owned by Joseph N.Ely at



the time of his death which he has any recollection of that remained in kind up to the death of Sarah S.Ely, except the cattle, horses, hogs and sheep mentioned by him in other parts of his deposition, and has also pointed out from the sale bill various other articles which Sarah S.Ely had at the time of her death which did not belong to Joseph N.Ely in his lifetime, and for the further reason that the question is indefinite, and misleading, specifying neither number or value, and making no distinction of a consumable and perishable nature and such as are capable of being perpetuated and returnable in kind, the law being that a life tenant acquires an absolute property in all personalty of a consumable nature and which are not capable of being returned in kind.

J.C.Noel, Atty. &c.

Ans. 1. If you do not mean money, notes, bonds &c., then I will say at the time of her death there was not as many horses, sheep, hogs ~~xxxxxx~~ cattle &c. as there was at the time of his death; other things was about the same.

Ques. 2. Previous to the death of Joseph N. Ely did Sarah S.Ely own any property of a personal nature that you know of in her own right?

Ans. 2. If she owned any property I have no knowledge of it.

Ques.3. With what funds if you know, or if you heard Mrs.Ely say, did she make the purchase of the land which she purchased from John T.Hughes and wife?

Ans. 3. <sup>She</sup> Some time after she purchased the land, I had a talk with her; we were talking about money; she said she had had some gold there in the house which my uncle had left there, and that she had thought that she would just keep that money, but getting afraid that some one would rob her, <sup>she said</sup> ~~she said~~ that she put the gold in to the land; that the land was close and convenient for her, and that when she died it would be there and that no one could steal it or carry it away. She did not tell me how much of the gold there was.

~~xxxxxx~~

Re-Examination.

Ques. 1. You state in your cross examination that there was more live stock at the time of the death of Joseph N.Ely than there was there at the time of the death of Sarah S.Ely, and that the other



things was about the same, please state whether you made this statement from your recollection alone, or from the amount of property assessed to Joseph N. Ely for the year in which he died, as shown by the property book on file in the clerk's office?

Ans. 1. I speak from the assessor's book.

Re-Cross-Examination.

Ques. 1. The statement you made in your examination in chief, that certain property mentioned in the sale bill belonged to Joseph N. Ely at his death and certain other property did not belong to him, is made upon your recollection of the property is it not, and you do not mean to state, do you, that there was no <sup>other</sup> property left by Joseph N. Ely at his death which is not mentioned in the sale bill?

Ans. 1. I only speak of my recollection; I do not mean to state that ~~that~~ the sale bill contains all the property that he left, but I know of no other property except what I have mentioned in my deposition.

And further this deponent saith not,

*Hiram H. Ely*  
.....

Mary P. Ely, re-called and states as follows:

Ques. 1 You heard the deposition of Hiram H. Ely in answer to questions 8 and 9 of his examination in chief, and saw him point out and call from the sale bill of Sarah S. Ely's estate such things as was owned by Joseph N. Ely in his lifetime and at the time of his death, and such things as was sold at said sale that did not belong to Joseph N. Ely in his lifetime, did you not?

Ans. 1. I did.

Ques. 2. Please state whether your recollection of this property sold at said sale corresponds with the answer to the said Hiram H. Ely?

Ans. 2. It does; I think his answers were correct. There are a few other things mentioned on said sale bill not mentioned by him, such as bags, nails, and other small articles that I do not remember whether Joseph N. Ely owned in his lifetime or not, but my best judgment is that he did own the majority of said articles, some of the articles he did not own.

And further this deponent saith not,

*Mary P. Ely*

*Witness  
claims  
two days  
\$1.00*

*Witness  
50 cts.*



John Z.Ely, a witness of lawful age, being first duly sworn, deposes and says:

Ques.1. Are you one of the administrators of Sarah S.Ely?

Ans.1. I am.

Ques. 2. Please state whether the tax receipts of the personal property of Joseph N.Ely for the year 1882 and the tax receipts of the personal property of Sarah S. Ely from 1883 up to 1899, inclusive, came into your possession as said administrator, and if so, state what you have done with the same?

Ans. 2. They did, and I filed them with my deposition in this cause, and they are now a part of the exhibits, on file with the exhibits in this cause, and to which I refer for all purposes.

Ques. 3. In the sale bill of the personal property filed by you you report the rent of a field near garden to Robt.W.Orr, for \$28.50; please state whether said field at the time of renting was either in grass or under cultivation?

Ans. 3. It was under cultivation, and was put under cultivation during the lifetime of Sarah S.Ely.

Ques. 4. You also report the rent of Mulberry field to John Z.Ely for \$6.50; please state whether said field at the death of Sarah S. Ely was in grass or in cultivation?

Ans. 4. It was in clover grass, but not a great deal on it and I used it for pasture.

Ques. 5. You report rent of graveyard field to John H.Pennington for the sum of \$16; please state whether this field at the death of Sarah S.Ely was in grass or under cultivation?

Ans. 5. It was in nothing.

Ques. 6. You report rent for pasture on Big Hill to John T.Hughes for \$2; please state whether this land was in grass or under cultivation.

Ans. 6. I was only a waste field.

Ques. 7 You have reported rent of garden to James P.Ely; was this garden in cultivation at the time of her death?

Ans. 7. It was.

Ques. 8. You report rent to Creed Gilley for \$3.00; please state whether the land ~~rented~~ to him was in grass or cultivation?



Ans. 8. It was in grass.

Ques. 9. You report rent for one-half Hughes field to J.B. & L.B. Ely for \$25; please state whether this land was in grass or under cultivation?

Ans. 9. It was under cultivation; that is, the land was broken up and the corn planted;

The garden mentioned before was broken and partially planted, such as onions, irish potatoes, beets and tomatoes. The field near the garden rented to R.W. Orr had been broken ~~and partially harrowed~~

Ques. 10. Please state whether <sup>you</sup> ~~you~~ were acquainted with Joseph N. Ely in his life time?

Ans. I was.

Ques. 11. State what you know of the cattle which he had on hands at the time of his death, and their kind and value?

Ans. As I remember he had 3 cows, valued at about \$45 for one, another at \$31.60, and the other at about \$25.00; He had two steers, 2 yr. old, my father paid her \$20.00 each for them, he had a yoke of steers, and they were worth \$110.00, and this is all I remember.

Ques. 12. Do do you know any thing about any money being loaned by Joseph N. Ely to William Pennington and about Sarah S. Ely having to bring suit for the money after the death of Joseph N.?

Ans. 12. I do know that he loaned him some \$250, and I know that she brought suit for the recovery of the money; the money was never collected.

Ques. 13. I hand you an attested copy of judgment of Sarah S. Ely vs. Wm. Pennington et al, and a copy of fi. fa. that was issued on the judgment, both of which I ask you to file with your deposition in this cause, marking same "Judgment and Fi. Fa".

Ans. 13. I file said papers marked as requested.

Ques. 14. State whether or not Wm. Pennington was not on the note executed to Joseph N. Ely by the said Wm. Pennington? State first if you know what has become of said note?

Objected to: The foregoing questions and answers in regard to the Wm. Pennington debt <sup>is objected to,</sup> because said enquiry is immaterial and irrelevant, and because the witness is incompetent to state the fact inquired of, the records of the court and the pleadings of the cause



being the best evidence of what they contain.

R.L.Pennington, Atty. &c.

Ans. 14. I do not know what has become of said note; Elk. Pennington was on the note, as he told me.

Cross-Examination.

Ques.1. State, if you know, whether Sallie Ely at the death of her husband had any property of a personal nature in her own right?

Ans. 1. If she ever had any I never heard of it; I know nothing of my own knowledge.

Ques. 2. If you know, state with what funds Sarah S.Ely purchased the land which she got of John T.Hughes and wife?

Ans. 2. She told me that she was paying for it out of the money of Joseph N. Ely.

Re-Examination.

Ques.1. Did she tell you with what kind of money she paid?

Ans. 2. She did not.

Ques. 2. Did she not tell you that she was paying for this land with money that ~~she~~ she got out of the railroad?

Ans. 2. No; she told me that she was going to pay for the land out of Uncle Joe's money.

Ques.4. Then she did not tell you that she had paid for it out of his money?

Ans. 4. No, she did not, but had only contracted for the land at that time.

Ques. 5. When you had this conversation with her about her buying the land you was owing her for borrowed money, was ~~she~~ not, for which she held your note, and she was wanting to collect from you what you owed her?

Ans. 5. I was owing her and she was wanting a part of the money.

Ques. 6. How much did you pay her?

Ans. 6. I paid her over \$100.

And further this deponent saith not.

..... John T. Ely

Wilkinson  
#110 D



B.M.Morgan, ~~the~~ witness previously on the stand, re-called for cross-examination, states as follows:

Ques. 1. Exhibit (Morgan # 1) filed with your deposition in chief shows that Joseph N.Ely was taxed with \$4848 of personal property for taxation for the year 1882, and exhibit (Morgan #2) shows that ~~xxxxxxx~~ Sarah S.Ely was taxed with \$5440 of personal property for taxation for the year 1883; do you know whether this was all the property of a personal nature owned by each of these parties at the <sup>time</sup> of said taxation?

Ans. 1. I do not; I speak only from the property books in my office.

Ques. 2. I will ask you to examine the personal property book on file in your office for the year 1899, district #3, Rocky Station, and state what is the aggregate value of all personal property, exclusive of notes, bonds, stocks and other evidences of debt, and also state the amount charged under the head of bonds, notes and other evidences of debt to Sarah S.Ely of Dry Branch.

Ans. 2. On page five, line #20, of said book, for said year, I find charged to S.E.Ely, Dry Branch, I find under the head of horses &c. I find five head at \$75; under the head of cattle, five head at \$100; under the head of hogs, eleven at \$12; under the head of family crriages &c., one at \$4; under the head of farming implements \$5; under the head of clocks, one at \$1; under the head of sewing machines, one at \$6; under the head of household and kitchen furniture, \$50; under the head of other property not specifically enumerated, \$3; under the head of all bonds, notes &c., \$8730; the total of which is charged at \$8985.

Ques. 3. Do you know whether this was all of the personal property owned by Sarah S.Ely on the first of Feb., 1899?

Ans. 3. I do not; I only speak from the book.

~~xxxxxxx~~ It is admitted here that the S.E.Ely charged on the book with the above taxes, is Sarah S.Ely, the widow of Joseph N.Ely.

Ques. 3. I will ask you to examine the personal property tax book for district #3, Rocky station, for the year 1900, and state the value and amount of personal property charged to Sarah S. Ely's estate.

The foregoing question is objected to because the book shows

75  
100  
12  
4  
5  
5  
50  
25-2



that the property is not listed by Sarah S.Ely herself, but by her Administrators, and therefore not permissible to contradict the listing of her property by herself for the preceding year 1899, and for the further reason that it is immaterial in arriving at the issues involved.

J.C.Noel, Atty. &c.

Ans. 3. I find on page six, line one, that Sarah S.Ely's ~~xxxxxxx~~ estate is charged with three head of horses, \$50; three head of cattle, \$40; nine head of hogs, \$9; house hold and kitchen furniture, \$50; guns &c., \$1; bonds, notes &c., \$8600; aggregate of all personal property, \$8750.

Ques. 4. Do you know whether this was all the personal property and its value which Sarah S.Ely owned on the first of Feb., 1900?

Ans. 4. I do not; I only speak from the book above referred to.

#### Re-Examination.

Ques. 1. In your cross-examination, in answer to question #2, you state that there is assessed to Sarah S. Ely on personal property book for district #3 personal property amounting in the whole to \$8985, could that assessment have included the value of the corn, hay, oats wheat and bacon, and other farm product, produced in the year 1899 on the farm; if any such articles were so produced on the farm in that year?

Objection: the foregoing question is objected to because the taxation of property for each year is made of what is on hand on the first of Feb. of each year, and it would have been impossible to have included in the assessments for the year 1899 the farm products raised on the farm for that year; such products if assessed at all, and if remaining on hand on the first of Feb. of the following year should have been taxed in the assessment for 1900.

R.L.Pennington, Atty. &c.

~~Ques.~~ Ans.1. I do not think it could.

Ques. 2. You state for the same year, 1899, that there were notes, bonds &c. charged to Sarah S.Ely to the amount of \$8730, I will ask you to state what the inventory of the notes, bonds &c. of the estate of Sarah S.Ely, as turned in by her administrators, and approved by the Commissioner of Accounts for Lee county, Va., on the 21 day of May, 1900, and recorded by you in your office on the 22 day of May,



R.L.Pennington, Atty. &c.

Ans. 2. \$8533.93.

XX

XX

And further this deponent saith not.

B. M. Morgan

E.G.Parsons, a witness of lawful age be<sup>th</sup> first duly sworn, deposes  
and says:-

Ques. 1. State your age residence and occupation.

Ans. 1. I am 54 years old; live at Pridemore, Va.; and am a farmer.

Ques. 2. Were you acquainted with Joseph N. and Sarah S. Ely in their lifetime?

Ans. 2. I was.

Ques.3. State whether or not for several years just preceding the death of Joseph N.Ely, and for several years just succeedin his death you would list for him and his widow Sarah S.Ely their notes,bonds, moneys, checks and other evidences of debt, and if so, please state at what time in the year you would prepare this list and for what purpose you would <sup>it?</sup> prepare ~~this list~~?

Ans. 3. For <sup>u</sup>ab<sup>o</sup>t six years prior to the death of Joseph N.Ely I would, about twice a year, count the interest on his notes for him, on a portion of them about the first of January, and on ~~thxxxxxxxix~~ an other portion about July or August; but after his death, on up to the death of Sarah S.Ely, about the first of January of each year, I would call at her house at her direction and count ~~the~~ interest on her notes, or such notes as she would give me, She would give the note to me in a bundle; I would open the bundle and count the interest on such note as she would consider collectable; now and then she would lay out a note from the bundle that she did not consider good, but this was not very often. I would count the interest on the good notes, make a list giving the name of each maker and amount of the note with interest~~xxxxxxxix~~ on such notes as had been bearing interest for a year, and the notes which had not run a year



the amount of the note with the estimated interest. In this way I went through the entire list of the notes given me, with the exceptions of the notes she would lay aside. After I listed the notes and their interest, I would add to this the money, or such amounts as she would tell me she had on hands, and her bank deposits also--all things that she considered assessable of a money character. I would then foot up the whole amount and make a total of the same. I would then take the number of the horses, cattle, and other live stock that she would have on hand, or that she would tell me that she would have on hand, together with her household and kitchen goods, farming implements &c., with her estimated value of the same, and I would then make a grand total of the whole. This list was made for the purpose of enabling her to have her property assessed for taxation for the year for which the list was made. These lists I would leave in her possession.

¶ The calculation I made for Joseph N. Ely was just simply to ascertain the interest on each note--I made no list of his notes.

Ques. 4. Did you make a list for Sarah S. Ely of her notes and property as above for the first year after Joseph N. Ely died?

Ans. 4. I did.

Ques. 5. You say <sup>that</sup> ~~sometimes~~ in making the lists for her, that sometimes she would lay aside a note that she did not consider collectable; please state, if you remember, what note these were she layed aside?

Ans. 5. I am of the impression that a note against Wm. Pennington, with Elk. Pennington as security, was one laid aside, after it had been listed a time or so, owing to the fact that Elk. Pennington denied that he signed the note--that is the renewed note. I am also of the impression that a note against Edward Pennington was laid aside, after he had moved to Tenn., it having been listed for several times. My recollection is that this latter note at one time with the accumulated interest amounted to about \$75. My impression is that a note against C. L. Hamblen was also laid asid, after having been listed for several times. I can't say definitely as to any other notes that were laid aside, but it seem to me that there were others.

Ques. 6. Did you at any time in making a list compare this list with



the list for the preceding year; that is, of the ~~money~~ note, money &c.?

Ans. 6. Not except as to the amount, <sup>and that</sup> to see if she was gaining, and how much.

Ques. 7. State whether you remember the <sup>h</sup>comarisons so made showed a gain or loss in the amount of her notes, money &c. and other evidences of debt.

Ans. 7. I do not remember of any loss, but I do remember of gains.

Ques. 8. Do you know what became of the lists that you prepared for her and gave her?

Ans. 8. I left them in her care, and have seen a portion of them since in the hands of John Z.Ely--since her death.

Ques.9. The Wm.Pennington note that you spoke of having been laid aside, please state, according to your recollection, ~~xxxxxx~~ whether this note was a renewal of a note that had been executed to Joseph N.Ely in his lifetime?

Ans.9. It bears on my mind that the note was a renewal. ~~ixxx~~

Ques. 10. Please state what relation the John Z.Ely, in whose possession you saw a portion of these lists which you made for Sarah S.Ely, is to Joseph N.Ely?

Ans. 10. He is a nephew both by blood and by marriage.

#### Cross-Examination.

Ques. 1. We show you a note dated Jan.1, 1884, for \$256.32, payable to Sarah S.Ely purporting to be signed by Wm & Elk Pennington, which note ~~was~~ is <sup>a</sup>note ~~is~~ filed in the law cause of Sarah S. Ely vs. Wm.Pennington et al; please examine the same and state whether in your opinion it is the same note you spoke of in your examination in chief, as being laid aside and not taken into account for taxation?

Ans. 1. ~~Yes~~ I have seen said note; from the amount and date I believe it to be the same note; and said note I believe is in my hand writing, except the signatures.

There was a time, as I understood from her, that Elk.Pennington did not deny his liability; she required a new note and Wm.Pennington brought this note with his own and Elk.Pennington's name to it, after which I understood from her that Elk.Pennington did deny having



signed said note or having authorised any one to sign it for him.

Ques. 2. Did you ever hear Sarah S. Ely say any thing about having money from the railroad company for a right of way condemned through lands of Joseph N. Ely; if so, state what she said she did with it?

Ans. 2. I did hear her say she got money from said company; she said she purchased land with it. My impression is she said she purchased the land known in this cause as the Hiram bottom--My understanding is that she put other money with this to purchase the Hiram bot<sup>t</sup>om.

Ques. 3. What is your recollection as to the amount of the condemnation money that she said she paid into said land?

The foregoing question or any answer thereto, is excepted to because the condemnation proceedings is the best evidence and cannot be contradicted by hearsay testimony.

J.C.Noel, Atty. &c.

Ans. 3. She told me she received from \$300 to \$400, and paid it into the land--this is my recollection. Whatever amount she did tell me that she received, that amount she said she put into the land, as I remember it.

Ques. 4. Have you observed both in the lifetime of Mr. and Mrs. Ely the value of property given in for payment of taxes, as compared with its actual value; if you say you have, is it not a fact that it has ever been the practice and custom in this county to give in property for taxation for a great deal less than its actual cash value?.

The foregoing question or any answer thereto is excepted to because the custom of other people in this county of listing their property for taxation at less than its real value is no evidence that either Joseph N. or Sarah S. Ely listed their property for taxation for less than its real value.

J.C.Noel, Atty. &c.

Ans. 4. I have observed it in Mrs. Ely's time, and probably in his time; as a general rule the assessed value is not equal to the actual value.

Ques. 5. Do you not know it to be a fact that Mrs. Ely in listing her property for taxation put its value for that purpose at less than its real value?



Ans. 5. I do not know that; she would only give me her valuation without me seeing the property.

Ques. 6. In your examination in chief, you stated that you had made comparisons of one year's list with the preceding year's list, and that they generally showed an increase, can you state what the increase was?

Ans. 6. I remember that some years there was more gain than other; I do not now remember any year that there was no gain, though there may have been such. I can't state definitely what the increase was for any particular year.

Ques. 7. You state that you made the list for Mrs. Ely at her request, and as she said, for the purposes of taxation; do you know that she gave in for taxation her property according to the list made by you?

Ans. 7. I do not know that she did.

Ques. 8. Do you know whether Joseph N. Ely in his lifetime gave in for taxation all the notes, bonds, moneys, and other evidences of debt owned by him?

Ans. 8. I do not.

Ques. 9. Do you know, or have you been informed, how much notes, bonds, moneys and other evidences of debt Joseph N. Ely, the last year of his life, gave in for taxation?

Ans. 9. I do not know, nor have I been informed.

Ques. 10. During the last year of the life of Joseph N. Ely, did you get any information from him, or from his notes and bonds &c., as to the aggregate of the same; if so, state what is your best recollection as to the amount of such?

The foregoing question or any answer thereto is excepted to in so far as it relates to what Joseph N. Ely may have told him, because self-serving on the part of the said Joseph N. Ely, and immaterial.

J.C. Noel, Atty. &c.

Ans. 10. I did not get any information from any source.

And further this deponent saith not.

.....*E. G. Parsons*.....

*Witness  
claims  
5-0 cts*



STATE OF VIRGINIA, County of Lee, to-wit:

I, A.M.Goins, Special Commissioner in the above styled cause, do hereby cerify that the foregoing depositions of F.B.Cox, B.M.Morgan, America Graham, Mary P.Ely, Hiram H.Ely, John Z.Ely and E.G. Parsons were duly taken under oath after notice, and subscribed before me, and at the time and place as above mentioned.

Given under my hand, this September 14th, 1900.

.....*A. M. Goins*.....,

Special Commissioner.

+++++

*Witness claims  
50 cts*

James Spangler, a witness who was summoned but not examined, claims his attendance of 50 cts.

A.M.Goins,

Special Commissioner.



John Z. Ely & J. M. Smythe, Attorneys,

vs. } Depositions.

Elizabeth J. Pennington et al.

C.

Bill of costs on within:

Printer's Notice \$10.00

Witnesses atd, 6.00

Sheriff's fees .40

Total, \$16.40



The deposition of B.M.Morgan taken pursuant to agreement between the plaintiffs and the defendants who have filed answers in the two chancery causes now pending in the Circuit Court of Lee County Va. of J.Morrison Smyth and J.Z.Ely Admrs. &c. against Elizabeth J.Pennington et al, and J.Z. and Mary P.Ely against J.M.Smyth et al which depositions are intended to be read as evidence in favor the defendants in said two chancery causes who are represented by J.C.Noel and C.T.Duncan, Attorneys,

Present R.L.Pennington and J.W.Orr attorneys for the plaintiffs in said two chancery causes and J.W.Orr Guardian ad litem for certain of the infant defendants, and C.T.Duncan attorney for the defendants for whom he and the said Noel filed answers and as Guardian ad litem for certain other infants.

B.M.Morgan a witness of lawful age being being duly sworn deposes and says:

Q.1.-- What official position if any do you occupy in the County of Lee?

A.-- I am Clerk of the County Court of said County.

Q.2.-- As such are you the keeper of the records of said office?

A.-- I am.

Q.3.-- Have you examined the settlement of the estate of Thomas Pennington deceased, made by his administrators and made an abstract of the amount in their hands and the amounts received by the said Joseph Ely, if so please file the same as part of your deposition marked "B.M.1"

A.-- I have made such examination and made an abstract from it, which I file marked as requested.

Q.4.-- I now hand you what purports to be a copy of a deed from Joseph Ely and Sarah S.Ely his wife to Tobias S.Pennington and John P.Graham, conveying to them their right title and interest and as children and heirs at law of Thomas Pennington deceased in his real estate. Please file the same as part of your deposition marked "B.M.2".

A.-- I file the same marked as requested.

Q.5.-- I now hand you what purports to be a copy of deed from Joseph N. and Sarah S.Ely his wife to William Pennington, conveying their un-



divided interest in a a certain tract of land estimated to contain 300 acres. Please file the same as a part of your deposition marked "B.M.3!"

A.-- I file the same as requested.

Q.6.-- I now hand you what purports to be an extract from, a decree of the County court of Lee County in the case of Tobias S. Pennington et al against Mourning Pennington et al, confirming partition. Please file the same as part of your deposition marked "B.M.4.""

A.-- I file the same as requested.

And further this deponent saith not.

*Wit. 1 da 50*

*B. M. Morgan*

America Graham another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Please state your age, and your relationship to Sarah S. Ely deceased?

A.-- I am 70 year old, and I am a sister to Sarah S. Ely deceased.

Q.2.-- Please state anything you may know of property given to your sister Sarah S. Ely by her father in his life time, and in this connection you may state what property your father usually gave his children upon thier marriage?

Obj.-- The introduction of this witness is excepted to as incompetant she being a heir of the estate of Sarah S. Ely deceased and a devisee under the will of Joseph N. Ely deceased, they being both dead.

J.W. Orr and T.L. Pennington.

A.-- I was very small when she married and can not tell you exactly what she got, but I can tell you what ~~x~~ I got. I got a good mare and a saddle, a good cow and I think a sow, and five head of sheep, a good bed and bed-clothes and other little things needed by young people when they married and set up to house keeping. And my supposition is that my father gave this much to each of his children. I was born February the 7th 1830, and my sister was married as I am informed the records show on June the 8th 1834.

Q.3.-- Please state whether or not, when you can first remember, your



sister and her husband Joseph N. Ely were wealthy or poor, and struggling to make a living?

A.-- They lived when I can first remember where they both afterwards died. They were not surrounded by much property, and were industrious and striving to make a living.

Q.4.-- Please state whether or not your sister during her whole life was an industrious, frugal and hardworking woman?

A.-- I would take her to be that way, and I can say the same for Mr. Joseph N. Ely, her husband.

And further this deponent saith not.

*America Graham*

I, W.A. Baker a justice of the peace in and for the County of Lee in the state of Virginia, do certify that the foregoing depositions of B.M. Morgan and America Graham, were duly taken sworn and subscribed to before me in my county aforesaid at the place and for the purposes in the caption mentioned. Given under my hand this the 3rd day of August, 1900.

W. A. Baker J.P.



J. J. Ely + J. M. Smyth Advers  
vs. { Depositions  
Elizabeth J. Pincus et al

B. M. Morgan \$.50  
America Graham  
\$.50

W. A. Baker Justice  
fee for taking these  
depositions 2 hr. \$1.50



The depositions of C.M.Graham and others taken before me, W.A.Baker a justice of the peace in and for the County of Lee in the state of Virginia, at the law office of R.L.Pennington in the town of Jonesville on July the 31st 1900, by agreement of parties appearing in said cause and answering, and to be read as evidence in behalf of the defendants answering through their attorneys Pennington Bros. and Orr & Irvine in the two chancery causes styled John Z.Ely and J.M.Smyth admrs. &c. against Elizabeth J.Pennington and others and J.Z. & Mary P.Ely against J.M.Smyth and others, now pending in the circuit court of Lee County.

Present Pennington Bros. and J.W.Orr for the defendants for whom they file answers, and J.W.Orr guardian ad litem for Fanny Johnson and others, and C.T.Duncan for the defendants for whom he and J.C.Nowl file answers, and C.T.Duncan guardian ad litem for Peter Reasor and others.

These depositions while taken by agreement are subject to all such exceptions for relevancy and otherwise as if they had been taken on notice duly served.

C.M.Graham a witness of lawful age being first duly sworn deposes as follows:

Q.1.-- State your name, residence, age and occupation.

Obj.-- The deposition of this witness or <sup>any</sup> another on the issue joined in the above styled causes is objected to because the whole matter in issue in both causes depends upon the proper construction of the will of Joseph N.Ely deceased, and said will must be construed by itself and of itself and its construction can in no way be aided by outside testimony.

C.T.Duncan, Atty.

A.-- Charles. M.Graham, 33 years old, reside four miles west of Jonesville, and am a farmer.

Q.2.-- What relationship are you to America Graham, one of the defendants in these causes, and John P.Graham?

A.-- Son.

Q.3.-- Is your father living or not?

A.-- He is not.



Q.4.-- Were you acquainted with John E.Burk and Henry Graham?

A. I was.

Q.5.-- Are they living?

A.-- They are not.

Q.6.-- What was the occupations of your father, Henry Graham and John E.Burk and also Joseph N.Ely?

Obj.-- Objected to because immaterial.

C.T.Duncan, Atty.

A.-- My father was a practicing physician, a surveyor, a farmer and was for six years next before his death and at the time of his death Treasurer of this county. Henry Graham was a farmer. John E. Burk was a farmer and physician. I do not know much about Joseph N. Ely of my own knowledge, but suppose he was a farmer. If I remember correctly my father and grand father died six years ago last February. John E. Burk died as I remember some time last Spring. Joseph N.Ely according to the inscription on his tombstones which I noticed a few months ago, had at that time been dead ~~xxxx~~ between seventeen and eighteen years. As I remember Sarah S.Ely died about the 12th day of April, 1900.

Q.7.-- Were you acquainted with the handwriting of your father John P.Graham?

A.-- Yes sir.

Q.8.-- I now hand you what purports to be the last will of said Joseph N.Ely, please examine it and tell what part if any of the same was written by your father John P.Graham?

Obj'-- Objected to because immaterial and irrelivant. The said will has been probated and the handwriting or person who wrote it is immaterial.

C.T.Duncan, Atty.

A.-- I can't say that any of it is his handwriting. The paper handed me bears dated the 20th day of January, 1868, which was before I was born.

Q.9.-- Does it not resemble the handwriting of your father as you remember it?

A.-- Very little according to my view of it, now and then I see



a word that resembles his a little, in fact I wouldn't have taken it to be his handwriting.

And further this deponent saith not.

*Writ 1 do \$50*

*Chas M. Graham*

C.T.Duncan, another witness of lawful age being duly sworn deposes as follows:

Q.1.-- State whether or not in the building of the L.& N.R.R. in this county, any part of the same was constructed through the lands mentioned in these causes?

Obj.-- The testimony of this witness is objected to for the same reasons stated in the objection to the testimony of C.M.Graham.  
C.T.Dunan, Atty.

A.-- The L.&N.R.R. was constructed over and upon lands then in the possession of Sarah S.Ely, and I suppose they are the lands mentioned in the proceedings in these causes, though personally I do not know this fact.

Q.2-- State what connection, if any, you had in procuring the right of way for said railroad compy through said lands?

A.-- I was attorney for the L.&N. Railroad Company and was charged with the duty of procuring right of way and had exclusive control of that matter.

Q.3.-- Then state how said company procured said right of way through said lands if you know, and what it paid for the same if anything, and to whom the money was paid?

A.-- The right of way through said lands was procured by condemnation proceedings under the statute. I have just examined the report of the commissioners appointed to fix and determine compensation to be paid for lands taken by said railroad compny for its purposes, and I find that \$300.00 was the amount fixed as the sum to be paid for the two strips of land taken by said company out of the ; lands then in possession of the said Sarah S.Ely. If I had spoken from my own recollection outside of the report of the said commissioners I would have said \$225.00 was the sum paid her, that being my recollection I am not positive as to whether I paid the money



into Court or paid it to Sarah S.Ely in person, but my strongest impression is that I paid it to her in person and this recollection is strengthened by the fact that I have just examined the report of D.C.Sewell, who was appointed a commissioner to determine under the statute who was entitled to said money. This report seems to have been filed on the 29th day of March 1890 and confirmed by an order of the County Court of Lee County entered on the 9th day of April. 1890. This report ascertains that Sarah S.Ely is entitled to the entire sum and adding this to my recollection I would say my best impression is as above stated that I paid this money to Mrs.Ely herself by check. I have <sup>an indistinct</sup> a recollection of giving her one or more checks.

And further this deponent saith not.

C. T. Duncan

E.R.Garrison, another witness of lawful age being duly sworn, deposes as follows:

Q.1.-- Give your name age residence and occupation?

A.-- E.R.Garriohn, 26 years old, residence Pennington Gap, and am a farmer.

Q.2.-- State whether you were at the sale made by the administrators of Sallie S.Ely, and if so state whether you bought the old family Bible, if you did state whether said Bible shows a record of the birth and deaths of Joseph N. and Sarah S.Ely?

Obj.-- This question and any answer thereto is objected to for the same reasons stated to in the objection to the first question propounded to C.M.Graham.

C.T.Duncan, Atty.

A.-- I was at said sale and there bought an old Bible which I now have here. There appears in it under the head of family record and births the following, to-wit: "Joseph S.Ely was born May 10th, 1813. Sarah S.Ely was born, May 16th, 1819" also under the head of family record and deaths I find the following, to-wit: "Joseph N.Ely decease December 11th 1882 in the 70th year of his life. Sarah S.Ely departed this life April 12th 1900 in the 81st year of her life" also under



the head of marriages I find the following to-wit: Joseph Ely and Sarah S. Pennington was married June the 8th, 1834" These entrys which I mention were in said Bible at the time I bought it.

Cross Examination.

X.Q.1.-- Do you know the handwriting in which said entrys or any of them are?

A.--~~X~~ I do not.

X.Q.2.-- Does not said book appear to contain the record of the birth, marriage and death of Thomas Pennington the father of Sarah S. Ely?

A.-- It seems to do so. And shows that Thomas Pennington was born July 5th, 1797, married January the 29th 1818, and died March 27, 1858.

X.Q.3.-- Examine said Bible and give the date of its publication.

A.-- It seems to have been published in 1855.

And further this deponent saith not .

*Wit: 1 da. \$ .50*

*E. R. Garrison*

George H. Myers, another witness of lawful age being first duly sworn deposes as follows:

Q.1.-- Were you acquainted with Sarah S. Ely, if so how long did you know her, and how near did you live to her during her life time?

~~XXXX~~

A.-- I did know, knew her for 30 years or more. I lived about four miles from where she lived.

Q.2.-- State whether or not at any time after the death of Joseph N. Ely she, the said said Sarah S. Ely, ever talked to you concerning the will of the said Joseph N. Ely, if you say she did, please state what she did say concerning the same. Give the conversation as near as you can?

Obj.-- The foregoing question and any answer thereto is objected to because irrelevant. immaterial and inadmissible. The will of Joseph N. Ely speaks for itself and her construction of it, if she made one cannot affect in any way the issue which must be determined by the Court.



A.-- I did have a cinversation with her concering said will about three years ago, at her house. We were talking about making money. She was talking about a piece of land which she had bought from ~~my~~ <sup>Amyanda</sup> Hughes. I asked her did she think the land would make her more money than the interst on the money that she paid for it. She said I don't know as to that, that that wasn't what she was looking at. She said Joe Made a will you know. I told her I had heard that he had made a will, but how he had made it I didn't know. She says " I was just going to tell you. He made it to me to have and to use for my life time, then he made one-tird of <sup>it</sup> to my people and two thirds to his. And she said why I put this money into that land, there had been so much confusion about people ~~making~~ loseing money and banks breaking that she had put it in the land where it would be safe, that she didn't want his people to come up and say after she was dead that she had distroyed his means from them. This was all that was said then. I had another conversation last January at her home. Previous thereto I had borrowed \$100.00 and my wife was my security to it she had told me I could keep it along if I would pay the interest on it. On this occasion I asked to borrow \$50.00 more. she told me I could get <sup>it</sup> if she had it to spare, she then went into a room and broughtnout the money and handed it to me, and I told her I would take it if I could give her satisfactory security. She said if my wife would go on the note with me I could have it, as she had gone my security on the other. She dropped her head as if c counting something and in a few moments she said, "I was just counting to see, if I were to live some time whether that \$100.00 and this \$50.00 would over-run her part of the estate. My wife was a d daughter of A.J.Ely and he was a brother of Joseph N.Ely.

Q.3.-- In either of the conversaations you had with her as above detailed, did she state anything about her custom of taking notes and having interest paid annually and the like, if so state what it was?

A.-- After I had had the \$100. abput a year I went to pay it off. She said if I wanted it longer I could keep it on. I told her I would keep it if she would let me pay the interest every year. She said



that it was her custom to take a new note every year or to have the interest paid, that she generally did that. I did pay her the interest yearly up to the time of her death. I still owe the \$100 and the \$50.

Cross Examination.

X.Q.1.-- Was Sarah S.Ely an industrious, saving, careful and money making woman?

A.-- That is what I always took her to be.

X.Q.2.-- Was she not also a very hard-working woman?

A.-- That was generally the talk and always seemed that way to me.  
And further this deponent saith not.

*G Myers*

John H.Kelly, another witness of lawful age, being first duly sworn deposes as follows:

Q.1.-- Were you acquainted with Sarah S.Ely deceased, if so how long di you know her?

A.-- I was acquainted with her. I have lived in the settlement and have known her ever since I was a boy. I was living with her at the time of her death and had been living with her since January the 20th, 1896.

Q.2.-- State if at any time while you lived at her house you heard her say anything about the will of her husband, Joseph N.Ely, if so state what she did say concerning the same?

Obj.-- Objected to for the same reasons offered as objections the question propounded to George H.Myers.

C.T.Duncan, Atty.

A.-- Charles Hamblin had been writing to her about some money he owed her, and she had been writing to him to come and see about the matter himself and not be writing about it. She then said that if she knew just how much it would take to run her and keep her comfortable the balance of her life, she would rather have the estate divided out according to the way the will said, two- thirds of it to his people and one-third of it to hers, than to be bothered with it, that it <sup>was</sup> a lot of trouble to her.



This occurred about one year ago ~~XXXXXXXXXXXX~~ last Spring and at her house.

Cross Examined.

X.Q.1.-- Was Mrs. Ely a working woman?

A.-- She was.

X.Q.2.-- Was she a careful saving money making woman?

A.-- Yes sir, I thought ~~do~~ as much as any woman.

X.Q.3.-- Did she attend ~~to~~ her business or get some one else to attend to it for her?

A.-- She got some one else to draw her notes up for her.

X.Q.4.-- Who attended to her other business?

A.-- She generally attended to it herself, or had it done.

X.Q.5.-- Didn't she watch over her farming operations herself?

A.-- Yes sir, she did.

X.Q.6.-- Did she often talk to you about her business?

A.-- Nothing more than just her ~~farming~~ business, and once and awhile some one would be a little slow about coming to give a new note she would have me to go and ~~tall~~ tell them to come and renew the note.

X.Q.7.-- Did you ever hear her mention her husband's will at any other time except when she was talking about Mr. Hamblin as stated by you above?

A.-- Yes, I have heard her mention it, but have no recollection of hearing her say how the will was to go.

X.Q.8.-- Did you ever hear her state how much she had made since the death of her husband?

A.-- No, I never did.

X.Q.9.-- Ypu never heard her say anything about what good care she had taken of the property, and how she had improved it?

A.--I have heard her say that she wanted to keep everything up as he left it and not let it go down hill.

X.Q.10.-- Then the way she expressed herself was that she didn't want to lessen his estate, that was all was it?

A.-- Yes sir.



X.Q.11.-- Did she sell any property while you lived with her, if so state what she sold?

A.-- She did sell some property. She sold two horses, one yoke of oxen, a cow and a good many calves and some hogs. She sold some corn and bacon, but this was mostly to her work hands. She each year made a small crop of her own, the rest of the land she rented out and collected the rents. She attended to the renting and collecting of the rents.

ReExamination.

Q.1.-- Were not the two horses sold raised by her from colts?

A.-- They were.

Q.2.-- Were they not colts of two mares that were owned by her at the time of her death and sold at the sale?

A.-- One was and one was not.

And further this deponent saith not.

*Wit; I do. \$1.50*

*John H. Kelly*

Hiram H.Ely, another witness of lawful age, being first duly sworn deposes as follows:

Q.1.-- State your name, age, residence and occupation?

A.-- Hiram H.Ely, 53 years old; reside at Tide post office; am a farmer minister.

Q.2.-- Have you seen the Bible had here to day and produced by E. R.Garrison on his examinaxtion, and examined it, if so please state if you ever saw said Bible before and where?

At this point the defendants represented <sup>by</sup> Duncan and Noel Attys. desired to ask the witness a preliminary question with a view to filing an objection to the testimony of this witness.

Ques.-- Are you one of the heirs of Joseph N.Ely deceased?

Ans.-- I am a son of Hiram Ely who was a brother to Joseph N.Ely and I suppose I would be one of his heirs.

Obj.-- The testimony of this witness is objected <sup>to</sup> because both the said Joseph N.Ely and Sarah S.Ely are dead and this witness is incompetent to testify



Answer to question 2 above.-- I have seen said Bible and looked at <sup>it</sup> I have seen said book before at Sarah S.Ely's. I saw it there at Joseph N.Ely's house in his life time.

Q.3.-- State, if you know, anything of the entrys in said Bible and referred to by said Garrison in his deposition?

A.-- I heard Joseph N.Ely and Sarah S.Ely say that William Yeary did that writing for them. They spoke of that as the family record of their births marriages &c.

Q.4.-- State if at any time you ever heard Sarah S.Ely say anything concerning buying the land called the John P.Hughes and wife tract if so state what she said and when and wheremit was?

Obj.-- The foregoing question and any answer thereto is objected to because the deed of Hughes and wife conveying said land is the best evidence of the contract made and the purposes of its making, and said deed and Sarah S.Ely's interest in said land cannot be altered amended or varied by parol declaration or disclaimers. And further because the evidence sought to be obtained by and answer to the question is irrelevant and immaterial.

C.T.Duncan, Atty.

A.-- I heard her speak of it directly after she bought the land. It was in her kitchen. I don't remember how the talk came up but it was in regard to money. In the conversation we were talking about gold money, and I said to her that some people were keeping gold and paying taxes on it when it was no better than any other kind of money. She said that was just what she thought, and that she had taken the gold that my uncle left at his death and paid into the land <sup>she</sup> bought of Jackson's heirs (meaning Jackson Ely's heirs). She said she got tired of holding the money there in her possession and being responsible for it.

Q.5.-- Is the Jackson Ely heirs land the same as the John P. Hughes and wife land?

A.-- It is the same.

Q.6.-- How near did you live to Sarah S.Ely and how long did you so live?

A.-- I don't suppose that I have ever lived more than two mile from



her.

Q.7.-- Is it not a fact that the said Joseph and Sarah S.Ely lived at the place where she died from the time of their marriage to the date of their death?

A.-- They did so far as I know. If they ever lived anywhere else I don't know it.

Q.8.-- State whether they ever had any children by the marriage?

A.-- None that ever I knew of.

Q.9.-- Have you not heard them say that they never had any children.

A.-- I don't know that I ever did. I have heard them say that they would have been proud if they had have had children.

Q.10.-- Do you remember about the time of the death of the said Joseph N.Ely, and if so when did he die?

I do. He died on the 11th day of December 1882 about nine o'clock in the morning.

Q.11.-- At the time of his death did he own any personal property, if so state what it was?

A.-- I don't know that I could tell you definitely about his property at the time of his death. I remember that they had three horses. I remember that there were some cattle but I don't remember how many or what kind they were. I remember there was a yoke of cattle. I remember they had some hogs but don't remember how many.

Q.12.-- State whether or not at the time of the death of Sarah S.Ely she had any of the property left by her husband at the time of his death?

A.-- They had a black mare there that was there at the time of his death. This was all that I remember of that was there at the time of his death.

Q.13.-- Was it not a fact that the black mare spoken of by you was kept for a brood mare and was there not most every year after the death of Joseph N.Ely, were not colts raised from her?

A.-- She bred the mare. I suppose she kept her for her breeding and working. I don't remember how many colts were there. I think there was a year or two that the mare did not bring colts. and the last year she did not bred her at all.



Q.14.-- What became of the other two horses left by the said Joseph N.Ely if you know?

A.-- She sold one, and traded one off and then sold the one for which she traded ~~that~~ one.

Q.15.-- Do you know what she got for these horses?

A.-- She told me she got \$40. for the one she sold, and I don't know what she got for the other.

Q.16.-- What did she do with the yoke of cattle?

A.-- She either sold them or traded them, but I don't know what she got for them.

#### Cross Examination.

X.Q.1.-- Did Joseph N.Ely own any land at the time of his death, if so state how much, if you know?

A.-- He did, but could not tell you how much he owned ~~exactly~~. I expect there was 240 acres or about that much in his possession at that time.

X.Q.2.-- Was this land all purchased by him, or did he heir some of it?

A.-- He heired a portion of it and the rest he purchased.

X.Q.3.-- How much did he heir and how much did he purchase?

A.-- It has always been claim<sup>ed</sup> that the piece he heird from his father contained about 82 acres . The place where he lives was purchased by him and His brother Hiram from Eli Hughes in partnership. This tract contains some 60 or 70 acres as I judge and after the marriage of Joseph Ely my father sold and conveyed his interest in said ~~Hughes~~ land to the said Joseph. He purchased another tract as I remember containing about 52 acres from young Isaac Hughes . He also purchsed a 12 acre tract from George W.Hughes. This all the land he owned that I know of except he made an entry of a tract containing about 40 acres. I see from the land books of Lee County for the year 1882 that he was charged with 225  $\frac{3}{4}$  acres. The entrys are made as follows 168  $\frac{3}{4}$  acres Blue Spring valued at \$9.00 per acre including buildings; \$300.00 for buildings making a total valuation of said t t



ation of said tract of \$1518.75; 57 acres Big Hill, valued at \$3.00 per acre nothing for buildings, making a total valuation of \$171.00

X.Q.4.-- Is the 12 acre George W. Hughes tract mentioned by you above a part of 168  $\frac{3}{4}$  acre Blue Spring tract.

A.-- I do not know positively, but suppose it is as it ajoinis it.

X.Q.5.-- Npw is it not a fact that ~~that~~ 12 acre tract wa conveyed jointly to Joseph N. and Sarah S. Ely?

A.-- I don't know. I have heard that such is the case, since the d death of Sarah S. Ely.

X.Q.6.-- Do you know what became of a tract of land that was conveyed jointly to Joseph N. and Sarah S. Ely, situated in the Pockett Country and conveyed by Thomas Pennington.

A.-- I am not positive, but I think said land ~~wa~~ sold during the life time of Joseph N. Ely to Anthony Witt or Jacob Witt or one of them.

X.Q.7.-- The personal property for Rocky Station District for the year 1883 and ask you to state from that what property Joseph N. Ely owned that is assessed to him for that year together with the valuation thereof.

A.-- 4 head of horses valued at \$250.00; 8 head of cattle valued a t \$135.00 6 head of sheep, valued at \$6.00; 19 hogs valued at \$30.00; one wagon, valued at \$25.00; farming untesils, valued at \$25.00; one clock valued at \$2.00; 1 sewing machine, valued at \$20.00; household and kitchen furnature, valued at \$100.00; fire arms, valued at \$4.00; solvent bonds, demands, claims &c. \$4251.00, making a total valuation of \$4848.00. And I file herewith an extract from said personal property book.

And further this deponent daith not.

Hiram H. Ely

F.B. Cox, another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Give you name, age, residence and occupation?

A.-- F.B. Cox, am 61 years old, reside at Tide post office, farmer.

Q.2.-- State whether you knew Joseph N. and Sarah S. Ely in their 1



life time, if so how long did you know them.

A.-- I did know them and have know~~at~~them for 30 or 35 years.

Q.3.-- Did you know Dr. John P.Graham in his life time, if so about how long?

A.-- ~~At~~ I did know him about twenty or twenty-five years.

Q.4.-- Were you acquainted with the handwriting of the said John P.Graham?

A.-- ~~Yes~~ I suppose I am; I have seen a great deal of it and have seen him write.

Q.5.-- I hand you what purports to be an original will of Joseph N. Ely, please examine it and state ~~xxxxxxx~~ what part of it if any is in the hand writing of John P.Graham.

Obj.-- Objected to because immaterial and irrelivant. It does not matter by whom the will was writ en and for the further reason that the question assumes that some part of the will was in the handwrit-  
ing of John P.Graham and is to that extent leading.

C.T.Duncan.Atty.

A.-- I have examined said paper and my best opinion is that the entire body of said will is in the handwriting of said John P.Graham

#### Cross Examination.

X.Q.1.-- Had you ever seen John P.Graham write any prior to the 20th day of January 18863?

A.-- I don't remember that I ever did, nor do I remember of being acquainted with his handwriting before the war.

X.Q.2.-- How long have you been acquainted with the handwriting of John P.Graham?

A.-- About 11 years ago.

And further this deponent saith not.

H. B. Cox

John Z, Ely another witness of lawful age being duly sworn deposes as follows:

Q.1.-- Were you acquainted with John P.Graham and if so how long d did you know him?

~~xxxxxx~~ It is admitted by the plaintiffs that this witness is a son



of A.J.Ely who was a brother to Joseph N.Ely and that this witness claims to be an heir and devisee under the will of Joseph N.Ely. Upon this admission the defendants heirs of Sarah S.Ely deceased object to the testimony of this witness because Joseph N.Ely and Sarah S.Ely are both dead.

C.T.Duncan.Atty.

A.-- I was acquainted with John P.Graham, I have known him ever since before the war between the states, for I went to school to him then.

Q.3.-- State whether you ever heard John P.Graham say anything about writing the Will of Joseph N.Ely, if so state what he said as to who wrote it?

A.-- He said he wrote it.

Q.4.-- State whether you ever heard said Sarah S.Ely say anything about buying the John Hughes and wife land, if so state what she said if anything about paying for the same?

A.-- This land was formerly owned by my father. After his death his heirs sold it to John Hughes and wife and he and wife sold it to said Sarah S.Ely. After she had contracted for the same, I owed her two notes one of which for \$100.00 was for money borrowed and money which she obtained from the L. & N. Railroad Right of way through the Joseph N.Ely land. She told me she wanted that money that came out of the right of way to put ~~it~~ back into land that it would be more safe for your heirs to be in land than it would be to be in money. I paid her the money and lifted the note. This piece of land is known in the community as the "Hiram bottom".

Obj.-- The foregoing answer is objected to because immaterial and irrelevant and because the deed of Sarah S.Ely to said land is the best evidence of the contract made and the purposes for which it was made, and its terms cannot be varied by parol testimony or by the oral statements of the grantee in said deed.

C.T.Duncan, Atty.

Q.5.-- Were you acquainted with the lands that Joseph N.Ely owned at the time of his death, if so state whether all of this land adjoins

A.-- I was acquainted with his land. It did not all adjoin. There were two disconnected tracts.



Q.6.-- State whether he inherited or had willed to him any portion of the lands he owned at the time of his death, if you say he did please state how much he inherited or had willed to him, and its comparative value with the lands which he purchased?

A.-- I have always understood, and heard him say that he had 75 acres of it willed to him. This is the western or lower place. The tract which was willed to him, I will say that one acre of it in my judgment is worth two or three acres of the balance of his land.

Q.7.-- State whether or not you are one of the Administrators of the said Sarah S.Ely?

A.-- I am.

Q.8.-- As such administrator state whether or not in the papers of said Sarah S.Ely you found tax ticket for 1883 of Sarah S.Ely, if you say you did please file the same here with your answer marked "Ticket".

A.-- I did find such a ticket, and I here file the same marked "Ticket" as requested.

#### Cross Examination.

X.Q.1.-- Did you find among the papers of Sarah S.Ely a tax ticket against Joseph N.Ely for year 1882, if so please file the same as a part of your deposition marked x "Ticket 2"

A.-- I did find said tax ticket and file the same as requested marked "Ticket 2".

X.Q.2.-- I now ask you to file the tax tickets for Sarah S.Ely from the year 1882 down to and including the year 1899.

A.-- I file the same as requested and including the ticket for 1884 for the land of Joseph N.Ely. Said tickets are pinned together and are marked "Tax tickets No. 3."

And further this deponent saith not.

J. S. Ely



Virginia, Lee County, to-wit:

I, W.A. Baker a justice of the peace in and for the County of Lee in the state of Virginia, do certify that the foregoing deposition of C.M. Graham, C.T. Duncan, E.R. Garrison, G. Myers, John H. Kelly, Hiram H. Ely, F.B. Cox, and John Z. Ely were duly taken sworn and subscribed to before me in my county aforesaid at the place and for the purposes in the caption mentioned. Given under my hand this the 31st day of July, 1900.

W. A. Baker J.P.



J. Z. Ely & Co

20  $\frac{5}{7}$  Depositions

E. J. Pennington total

Chas. Graham, \$. 50

C. T. Duncan . . . .

E. R. Garrison .50

L. Myers

John H. Kelly .50

Hiram H. Ely

J. B. Cox

John F. Ely

Fee of W. A. Baker

Justice taking de-  
positions & hours . \$6.00

\$7.50



The depositions of James P. Ely taken before me Wm. J. Orr, a Justice of the peace in and for the county of Lee and State of Virginia, by agreement on the 18th day of May, 1901 to be read as evidence in behalf of J. P. Ely in a certain petition filed in the chancery cause of Smyth & Ely admors. vs. E. J. Huntington, and now pending in the Circuit Court for Lee County, wherein said J. P. Ely is plaintiff and Th. J. Milham admor or it are signed and sworn to.

Present E. J. Huntington for plff and Th. J. Milham for himself.

James P. Ely a witness of lawful age, after being duly sworn deposes as follows.

I live in Lee County, and am 40 years old and am a farmer; I knew A. J. Ely in his life time; he has been dead about 6 to 8 years; the



lived at the time of his death, and for several years previous in the State of Kentucky. ~~The~~ I was present when said A. J. Ely signed, or rather made his mark for his signature, to the \$25<sup>00</sup> note mentioned in the petition of said S. P. Ely. It was myself who suggested that a witness also sign said note, and so Mrs. Lizzie Ely, wife of said A. J. Ely, signed said note as a witness; she then and now and ever since the date of said note has been a non-resident of this State. Also has said A. J. Ely ever since ~~the~~ said note was executed up to the time of his death been a non-resident of this State. The note was given for between horses, said S. P. Ely and A. J. Ely exchanged horses, and A. J. Ely gave his note for \$25<sup>00</sup> as book. For the



W<sup>500</sup> note, I ~~could~~ said  
A. J. Ely Cash

X Examined

Question by William; Do you  
say you were present when  
the note was given?

Ans. I was. I also saw his wife  
sign it as a witness.

And further this deponent  
saith not

James P. Ely

Witness  
claim  
1 day 504

Virginia

County of Lee, to-wit:

I, W. J. Orr, a Justice of the  
peace in and for said County &  
State, do hereby certify that the  
foregoing depositions of James P.  
Ely were duly taken, sworn to  
and subscribed before, at the  
law office of Dr. H. P. Livingston  
and at the time, and for the pur-  
pose of in the Caption men-  
tioned hereto mentioned.

Given under my hand  
this the 18th day of May, 1901  
W. J. Orr J.P.



J. P. Ely

vs } Deponents

W. J. Melken adum & Co

Filed May the 20<sup>th</sup> 1901

A. B. Munsey Clerk

J. P. fee

754



Virginia,

Lee County, Va.

This day I.P.Ely personally appeared before me, a justice of the peace in and for said county and State and made oath that Sarah Smyth, Minerva Bowen, Lyde Turner, Gorge Ann Ely, Hiram Ely and Jackson Ely, against whom he is about to file a petition in the Chancery cause J. M. Smyth and J. E. Ely, Admrs. of the estate of Sarah S. Ely deceased, *vs* *E. J. Dunnington & al* in the Circuit Court for Lee County, Va., are non-residents of this State

Given under my hand this the 16th. day of March, 1901.

W. L. Carter J.P.



J. P. Ely for &c

no. } Affidavit

A. J. Ely's heirs

Filed April 1st 1901

A. B. Munsey Clerk



COMMISSIONER'S REPORT.

John Z.Ely & J.M.Smythe, Admrs. &c., )  
vs. ) IN CHANCERY.  
Elizabeth J.Pennington et al., )

To the Hon.H.A.W.Skeen, Judge of the Circuit Court for Lee  
County, Virginia:

Your undersigned Special Commissioner, appointed by decree entered in the above styled cause, in vacation, August 10th, 1900, after giving notice of the time, place and purpose of his sitting, as required by said decree, by publication thereof in four successive issues of the Southwest Virginian, a weekly newspaper published at Jonesville, Lee county, Virginia, and as will be seen from a certified copy of the notice, attached to the depositions filed with this report, marked "Comr's Notice", proceeded on the 10th day of Sept., 1900, the time, and, at the office of A.M.Goins in the town of Jonesville, the place, designated in said notice, to execute the requirements of said decree; and the proceedings having been thenceforward regularly adjourned from day to day, and being at length completed, the result is herewith respectfully submitted.

Especially is your commissioner directed by the foregoing decree to hear evidence and report upon the following matters:

1st. Of what real estate Joseph N.Ely died seized, its nature and location, and whether or not it all remains in kind, and if not, the value of such as has been disposed of, as of the time of its disposal.

2nd. Of what personal property the said Joseph N.Ely died possessed, of all kinds and descriptions, its nature and value as of the time of the death of said Ely.

3rd. The increments, if any, to the estate so left by the said Joseph N.Ely in the hands of his wife, Sarah S.Ely, stated as of the time of her death, and the nature thereof.

In response to enquiry 1st, above, your commissioner refers to page 2, of the depositions herewith filed marked "C", where it is admitted by the attorneys for the parties in interest that Joseph N.Ely, at the time of his death, owned what was known as his Home Place, a tract of land made up of purchases from different parties, containing about 138 3/4 acres; a tract known as his Lower Place, being the land laid off to him in the partition of the estate of his father, Joseph Ely, containing about 75 acres; and a one-half



interest in a 12-acre tract conveyed jointly to him and his wife, Sarah S.Ely, by G.W.Hughes and wife, adjoining the said Home Place.

It is further admitted by said attorneys that all of said lands owned by the said Joseph N.Ely at the time of his death still remain in kind, with the exception of the strip condemned by the Louisville & Nashville railroad company for its right of way through the lands owned by Joseph N.Ely individually, containing 6.24 acres, and for which Sarah S.Ely his widow received the sum of \$325.00.

Said lands owned by the said Joseph N.Ely at the time of his death are located in Lee county, Virginia, on the waters of what is known as Dry Branch, and are valued principally for farming purposes.

#### SUMMARY.

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Joseph N.Ely, at the time of his death, owned in fee the following lands:

1st. His Home Place, . . . . .	138 3/4 acres.
2nd. " Lower " . . . . .	75 "
3rd. " 1/2 interest in 12-acre tract, . . . . .	6 "
<u>TOTAL NO. ACRES OWNED, . . . . .</u>	<u>219 3/4 "</u>

From the foregoing 219.75 acres, deduct 6.24 acres, the number condemned for right of way for the Louisville & Nashville railroad, and we have 213.51 acres remaining in kind at the death of Sarah S.Ely.

Sarah S.Ely received \$325 for the 6.24 acres condemned for right of way for the L. & N. railroad.

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2nd. Of what personal property the said Joseph N.Ely died possessed, of all kinds and descriptions, its nature and value as of the time of the death of said Ely.

Joseph N.Ely departed this life, testate, Dec. 11, 1882. No personal representative qualified. The whole of his property, both real and personal, went into the hands of his widow, Sarah S.Ely, pursuant to the provisions of his will. There was no appraisement of his property. No memoranda kept of its kind, nature, quality or value. No record kept of moneys, notes, bonds, checks, or other evidences of debt left by him at the time of his death.

Eighteen years, or thereabout, bassed by after the death of Joseph N.Ely and Sarah S.Ely, on April 12, 1900, was called to meet



with her husband. She died intestate, and John Z.Ely and J.M.Smythe were appointed and qualified as her administrators, and, on the 27 and 28 days of April, following her death, exposed for sale at public auction to the highest bidder on a credit to January 1st, 1901, without interest, all the personal property left by her at the time of her death. The property sold by said administrators on the days of sale amounted to \$993.83; the cash rent received for the real estate for the year 1900 amounted to \$87.50; the inventory of notes and bonds, not including interest, amounts to \$8533.93; and the cash received and cash and check in bank amounts to \$636.91. The whole making a total received into the hands of said administrators, not counting interest on notes and bonds, of \$10252.17.

Contentions now arise between the heirs of Joseph N.Ely and Sarah S.Ely as to the distribution of the fund in the hands of the administrators according to the will of the said Joseph N.Ely. This suit is instituted, and the court is called upon to interpret said will. The will is accordingly interpreted by the court, and this commissioner is appointed and directed to hear evidence, "take an account and report" upon the enquiries referred to him by the court. And so your commissioner proceeds, "with fear and trembling and roundabout ceremony", to answer the enquiries of the court as best he can. Eighteen years have passed by, and, from questionable records and the slippery memories of men, your commissioner undertakes to ascertain "what personal property the said Joseph N.Ely died possessed, of all kinds and description, its nature and value as of the time of the death of said Ely". If a definite and specific answer is demanded by the court to the enquiry, then your commissioner answering in broken English says, "It can't be did"; but if an approximation of the matter will satisfy the enquiry, then your commissioner, guided by the lights before him, will proceed to report the best he is enabled, trusting that if he commits error the court will rectify.

It will be seen from the depositions filed herewith marked "C", that only that side of this case representing the heirs of Sarah S. Ely have offered any evidence before your commissioner to aid him



in this enquiry. The side representing the heirs of Joseph N.Ely seem to rest upon the ground that it devolves upon the heirs of Sarah S.Ely to show the increment to the estate of Joseph N.Ely while in her hands before they are entitled to said increment, and until they do so show are entitled to nothing, save their one-third share under the will of the said Joseph N.Ely.

It is contended by the heirs of the said Joseph N.Ely that the personal property books of the district in which he lived is not legitimate evidence to show the value of the property left by him at the time of his death. They admit that said books may be evidence to show the assessment of the taxes and the property therein mentioned (Citing Greenleaf on Ev., Vol. 1, §493), but contend that said books are not competent evidence to show the value of said property (Citing Lawyers' Reports Annotated, Vol.5, pp.523-4).

Thus it will be seen that the heirs of the said Joseph N.Ely not only do not bring forward evidence to aid your commissioner in this enquiry, but they object to the only evidence, if such it be, from which the enquiry can be even approximately ascertained.

Your commissioner will not at this point say whether he considers said personal property books admissible evidence to show the value of the property therein listed, but, encumbering his report slightly with matter that may seem prolix and to that extent improper, he desires to show by evidence before him that the assessed value of the personal property as listed in said books was not in all instances its true value.

To illustrate: The personal property books for the year 1882, which was the last assessment made by Joseph N.Ely prior to his death, show that he listed for taxation for that year the following property: 4 horses \$250; 8 cattle \$135; 6 sheep \$6; 19 hogs \$30; 1 wagon \$25; farming implements \$25; 1 clock \$2; 1 sewing machine \$20; household and kitchen furniture \$100; fire-arms \$4; solvent notes, bonds &c. \$4251. Total value of all property listed for taxation \$4848.00.

The personal property books for the same district for the year 1883, the year following the death of Joseph N.Ely, and the first



year that the property was listed for taxation by Sarah S.Ely, show the following: 5 horses \$225; 7 cattle \$100; 4 sheep \$4; 15 hogs \$25; 1 wagon \$30; farming implements \$20; 1 clock \$2; 1 swing machine \$20; household and kitchen furniture \$100; fire-arms \$4; value of solvent notes, bonds &c. \$4910. Total value of all \$5440.00.

Notwithstanding the valuation of the foregoing property as shown by the personal property books, Hiram H.Ely and Mary P.Ely, the two witnesses who seem to have been most intimately acquainted with the personal property of Joseph N.Ely at the time of his death, and with that of Sarah S.Ely after his death, and speaking from the sale bill of Sarah S.Ely, point out articles in the way of household and kitchen furniture and farming implements alone that sold at her sale, eighteen years after the death of Joseph N.Ely, for something like \$200, when in fact these articles were listed for taxation by him eighteen years before at only \$125. Said personal property books for the year 1882 show that Joseph N.Ely listed eight head of cattle at \$135; Hiram H.Ely says that of the eight head thus listed there was a yoke of steers worth \$120, and one witness says Sarah S.Ely sold the steers for \$110, and one of the cows included in the eight head (the one given to R.L.Graham's wife) was worth \$30. Six head of sheep are assessed for the year 1882 at \$1 per head; Hiram H.Ely says they were worth \$2 per head. Nineteen hogs are assessed at \$30; Hiram H.Ely says they were worth \$2 per head.

Passing from the foregoing and coming on down nearer to the final disposition of said property at the sale of Sarah S.Ely, we find from the personal property books for the year 1899, which was the last assessment by Sarah S.Ely during her life, the following assessments: 5 horses \$75; 5 cattle \$100; 11 hogs \$12; 1 wagon \$4; farming implements \$5; 1 clock \$1; 1 sewing machine \$6; household and kitchen furniture \$50; other property not specifically enumerated \$3. Total \$256. On the 27 and 28 days of April, 1900, the personal property left by her at the time of her death, which included that left by Joseph N.Ely as well, when exposed for sale brought \$993.83. Thus it is seen that the value of the property as listed for taxation does not in all instances represent its true value.



But are the personal property books, or certified copies therefrom, prima facie evidence of the value of the property listed therein, and place upon the opposing parties the burden of showing a different value, if they would contest the value? If said books are not prima facie evidence of the value of the property listed therein, then your commissioner is at the end of his row, and is unable to report to the court "of what personal property the said Joseph N.Ely died possessed, of all kinds and descriptions, its nature and value as of the time of the death of said Ely", or "the increments, if any, to the estate so left by the said Joseph N.Ely in the hands of his wife, Sarah S.Ely, stated as of the time of her death, and the nature thereof".

But if said personal property books, or certified copies therefrom, are prima facie evidence of the value of the property listed therein, and this is the view your commissioner takes of the matter, then he is enabled to answer approximately the enquiries directed by the court, and will so attempt.

Your commissioner takes as a basis from which to start his calculation the personal property books for the year 1883. His reason for taking the books of 1883, instead of the books for 1882, is because the 1883 assessment is nearer in point of time to the death of Joseph N.Ely--he having died Dec.11, 1882, and said assessment having been made as of Feb.1, 1883, a little over one month after the death of said Ely. Where there is sufficient <sup>evidence</sup> to show to the mind of the commissioner that the value of the property as listed should be increased in order to arrive at its actual value he accordingly makes the increase.

Then starting with the assessment for the year 1883, we find the following: 5 horses assessed at \$225; 7 cattle \$100 (John Z.Ely says there were three cows valued respectively \$45, \$31.60 and \$25, two 2-year-old steers \$40, a yoke of steers \$110, making a total of \$251.60); 4 sheep \$4 (Hiram H.Ely says they were worth \$2 per head, making a total of \$8); 15 hogs \$25 (Hiram H.Ely says they were worth \$2 per head, making a total of \$30); one wagon \$30; farming implements \$20; one clock \$2; one sewing machine \$20; household and kitch-



en furniture \$100; fire-arms \$4; solvent notes, bonds &c. \$4910. Making a total of all personal property owned by the said Joseph N. Ely at the time of his death, as best your commissioner can arrive at, of \$5600.60, say for even numbers \$5600. And this is the value of the personal property of the estate of Joseph N. Ely, with the exceptions following:

As stated above, the \$325, condemnation money for right of way for the L. & N. railroad, was received by Sarah S. Ely. It is insisted by counsel for her heirs that this money belongs to them absolutely by reason of adjudications in said condemnation proceedings. This contention seems to your commissioner to be in the face of law, justice and common reason, and even if said condemnation proceedings could have been a final determination of this question, your commissioner does not believe that the report in said proceedings bears out the idea here contended for. In the report of the commissioner in said proceedings we find this language: "Now with these facts before your commissioner, he is of opinion that the terms expressed in said will are so sole and absolute as to be construed as an absolute title in said Sarah S. Ely to said lands during her life for any and all purposes for which she should use them, and therefore determines that Sarah S. Ely is alone entitled to said damages &c." That is, she is entitled to said damages during her life. She received them during her life, but at her death her estate must account for them to the estate of Joseph N. Ely, if they can be accounted for. It is clearly shown that this \$325 was invested in the purchase of the John T. Hughes and wife eleven acres of land which was deeded to Sarah S. Ely individually. If this contention be true, then Sarah S. Ely with equal propriety might <sup>have</sup> converted the whole of the estate of Joseph N. Ely into money, invested it in lands in her own right and thus have deprived the estate of Joseph N. Ely of any thing whatever. Your commissioner holds that the estate of Sarah S. Ely should account to the estate of Joseph N. Ely for this \$325.

It will be seen from the sale bill of Sarah S. Ely's estate, and the deposition of John Z. Ely, that the rents of the real estate of Joseph N. Ely for the present year, 1900, is \$87.50, cash rent.



Out of this sum your commissioner thinks the taxes on the real estate for the year should first be paid, and the residue should then be apportioned between the estates of Joseph N. and Sarah S. Ely in the proportion of 2 to 1. Your commissioner's reason for this apportionment is this: (1), From the beginning of the year to the death of Sarah S. Ely is about one-third part of the year; (2), At the time of the death of Sarah S. Ely, as shown by witness, the soil had been turned and the crop planted, and this labor your commissioner ascertains from experienced farmers is about one-third of the labor required from the beginning to the completion of such crop as was on this land this year. So after deducting the taxes for 1900 of \$24.50, from the \$87.50, we have \$63 remaining to be apportioned between the two estates in the proportion of 2 to 1, which makes \$42 to the estate of Joseph N. Ely, and \$21 to the estate of Sarah S. Ely.

So then from the foregoing we have the following

#### SUMMARY.

1st. Personal property left by Joseph N. Ely, . . . . .	\$ 690.00.
2nd. Notes, bonds &c., . . . . .	4910.00.
3rd. Condemnation money from L. & N. railroad, . . . . .	325.00.
4th. $\frac{2}{3}$ net rent for 1900, . . . . .	42.00.
<u>TOTAL ESTATE OF JOSEPH N. ELY, . . . . .</u>	<u>\$5967.00.</u>

3rd. The increments, if any, to the estate so left by the said Joseph N. Ely in the hands of his wife, Sarah S. Ely, stated as of the time of her death.

The total fund in the hands of the administrators (not counting interest on notes and bonds to date of payment), is \$10252. From this sum deduct \$5967, the amount ascertained to be due the estate of Joseph N. Ely, and we have remaining \$4285, which is the increment to the estate of the said Joseph N. Ely while in the hands of his widow, Sarah S. Ely. This leaves her estate to pay the whole of the taxes on the real estate for the year 1900, as two-thirds of same was deducted above from the estate of Joseph N. Ely.

#### SUMMARY.

1st. The Increment of Sarah S. Ely, . . . . .	\$4285.00.
2nd. One-half interest in 12-acre tract, . . . . .	6 acres.
3rd. The John T. Hughes & wife tract, . . . . .	11 acres.

*4th. Int. of \$8093.99 notes to death of Mrs. Ely*

(See Statement Following.)



STATEMENT MADE AT REQUEST OF JOSEPH N. ELY' HEIRS.

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It is insisted by counsel for the heirs of the estate of Joseph N. Ely that if your commissioner takes the personal property books for 1883, to ascertain the value of the property left by Joseph N. Ely at the time of his death, then he ought to take the personal property books for the year 1900, to ascertain the value of the property left by Sarah S. Ely at the time of her death, and that the difference between the two would show the increment to which her estate is entitled, and that the residue should belong to the estate of Joseph N. Ely. The reasoning of said counsel for this view seems to be this: The taxable value of property as a rule is less than its true value, and its value at a sale on time is greater than its true value. Hence by taking the property books for 1883 to ascertain the value of his estate, and the sale bill to ascertain the value of her estate, that thereby we ascertain his estate lower than its actual value, and her estate higher than its actual value.

Your commissioner accordingly reports this idea:

1st. Est. of Sarah S. Ely, as per books for 1900, . . .	\$8750.
2nd. Est. of Joseph N. Ely, as per books for 1883, . .	5440.
INCREMENT TO EST. OF JOSEPH N. ELY, . . . . .	\$3310.

1st. Funds in hands of Admrs., . . . . .	\$10252.
2nd. Est. of Sarah S. Ely, as per books for 1900, . .	8750.
DIFFERENCE BETWEEN ASSESSED & SALE VALUE, . .	\$ 1502.
Deduct net 1/3 rent for 1900, . . . . .	21.
BALANCE OF DIFFERENCE, . . . . .	\$ 1481.

Claimed by counsel for Joseph N. Ely's heirs:

1st. Assessed value for the year 1883, . . . . .	\$5440.
2nd. Gain by sale, . . . . .	1481.
CLAIMED BY JOSEPH N. ELY'S HEIRS, . . . . .	\$6921.
Add L. & N. Condemnation Money, . . . . .	325.
TOTAL EST. JOSEPH N. ELY, . . . . .	\$7246

1st. Increment of Sarah S. Ely, bro't down, . . . . .	\$3310.
2nd. Deduct L. & N. Condemnation, . . . . .	325.
BALANCE OF INCREMENT, . . . . .	\$2985.
Add net 1/3 rent for 1900, . . . . .	21.
TOTAL EST. SARAH S. ELY, . . . . .	\$3006.

EST. OF JOSEPH N. ELY, . . . . .	\$ 7246.
EST. OF SARAH S. ELY, . . . . .	3006.
AMT. IN HANDS OF ADMRS., . . . . .	\$10252.

Your commissioner is of opinion that the foregoing statement



would more nearly approximate justice if the \$1502 was equally divided, giving \$751 to each of said estates; for, as will be seen from the sale bill, and from the depositions of witnesses, much of the property sold at the sale, especially bacon, corn &c., all of which sold for high prices, was added to the estate by Sarah S. Ely, and it seems to the commissioner that her estate should have some of the advantages of the high prices of the sale-on-time and the otherwise accumulated profits.

Taking this view of the matter, we have:

1st. The Est. of Joseph N. Ely, . . . . .	\$6505.50.
2nd. The Est. of Sarah S. Ely, . . . . .	3746.50.
<u>AMT. IN HANDS OF ADMRS., . . . . .</u>	<u>\$10252.00.</u>

Now having reported as fully as your commissioner is enabled from the evidence before him he respectfully submits this his report.

This October 8, 1900,

*A. M. Goins*  
.....  
Special Commissioner.

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Increment 3882  
325 - R.R. Charge  
\$3657

Fee for this Report \$ 50.00

Fee charged to .....

I, A. M. GOINS, Special Commissioner in the above styled cause, do hereby make oath that I was diligently employed not less than 68 hours, in performing the services for which the fee, above stated, is charged, and do so certify, this 3<sup>rd</sup> day of October, 1900.

*A. M. Goins*

Special Commissioner.



John J. Ely & J. M. Smythe, Advers

vs. { Comr's Report.

Elizabeth J. Pennington et al.

Filed Oct. 3, 1900,

A. B. Munsey Clerk

Comr's Fee, \$50.00.



In the settlement of the estate of Thomas Pennington, deceased, made by his Administrators, Joseph Ely and Tobias S. Pennington, there was in the hands of said administrators on the 1st day of May, 1859, the sum of \$3146.83; that of this sum Jos. Ely, husband of Sarah S. Ely, received the following sums ~~xx xxms~~ as shown by his receipts filed in said settlement, to wit: December 26th 1859 \$175.00; December 31st 1859, \$55.00; and January 4th, 1860, \$100.00; and that said settlement showed a balance in said administrators hands as of that date of \$143.52 $\frac{3}{4}$ ; and that I find no other settlement of said estate on record.

B. M. Morgan, clerk.

@ rse



"B. M. 1"

C 25



This deed made this 22nd day of May, in the year 1858, between Joseph Ely and Sarah S.Ely, his wife, formerly Sarah S.Pennington, of the one part, and Tobias S.Pennington and John P.Graham, of the other part, all of Lee County, Virginia, Witnesseth that the said Joseph Ely and Sarah, his wife, for & in consideration of the sum of six hundred dollars, lawful money of Virginia to them in hand paid the receipt whereof they hereby acknowledge, have bargained sold and delivered & by these presents do bargain sell convey and deliver to the said Tobias S.Pennington and John P.Graham, all their right title and interest as children and heirs at law of Thomas Pennington deceased, in & to all the real estate of which Thomas Pennington died seized in the county of Lee and State of Virginia, also all their right title & interest as heirs at law of the said Thomas Pennington, deceased, in & to a certain tract or parcel of land conveyed by Edward Pennington to the said Thomas Pennington to take effect at the death of the said Edward Pennington, which is dated 3rd day of June 1853 and is on record in the clerk's office of Lee; To have and to hold the said interest in all the real estate aforesaid, to the said Tobias S.Pennington and John P.Graham, and their heirs forever. In Witness whereof the said Joseph Ely and Sarah S., his wife, have hereunto subscribed their names & affixed their seals, the day & year before written.

Joseph Ely (Seal.)

Sarah S.Ely, (Seal.)

Va. Lee County, to-wit:

We John Smith and Ira Warner, Justices of the peace of the county aforesaid, do certify that Sarah S.Ely, <sup>The</sup> wife of Joseph Ely, whose names are signed to the writing above bearing date on the 22th, day of May, 1858, personally appeared before us in the county afore-



said and being examined by us privily and part from her husband, and having the writing fully explaimed to her, she, the said Sarah S.Ely acknowledged the said writing to be her act and declared that she had willingly executed the same and does not wish to retract it. Given under our hands this the 22nd day of May, 1858.

Ira Warner, J.P.

John Smyth, J.P.

Virginia Lee county, to wit:

I, John Smyth, a Justice of the Peace for the county aforesaid do certify that Joseph Ely, whose name is signed to the writing ab ove bearing date on the 22nd day of May, 1858, has acknowledged the same before me in my county aforesaid. Given under my hand this 22nd day of May, 1858.

John Smyth, J.P.

Ira Warner, J.P.

Virginia,

At a court begun and held for Lee county, at the court-house thereof on Monday the 19th day of July, 1858.

This indenture of bargain and sale for land between Joseph Ely and Sarah S., his wife, of the one part, and Tobias S.Pennington and John P.Graham, of the other part, was admitted to record upon the certificate of two justices of this county.

Teste: H.J.Morgan C.C.

(D.B.13.page 509.) A copy, Teste: B.M.Morgan, clerk.

C. 60¢



"B. M. 2"

© 68



This Deed made this 16th.day of January 1873,between Joseph N. Ely and Sarah S.Ely his wife parties of the first part,and William Pennington party of the second part,all of Lee County Virginia.

Witnesseth,that in consideration of the sum of One hundred dollars to him in hand paid the said Joseph N.Ely and Sarah S.Ely his wife do grant unto the said William Pennington with a generally warranty all his right title and interest in and to one sixth undivided part of a certain tract of land,with the appertenances thereof,containing eight hundred acres be the same more or less lying on the waters of Sand Lick in Lee County Virginia,the same being one sixth part of undivided tract of Land containing eight hundred acres be the same more or less,to have and to hold the said tract of land aforesaid to the said William Pennington and his heirs forever and the said Joseph N.Ely warrants generally the land hereby conveyed in ~~###~~ witness whereof the said Joseph N.Ely and Sarah S. ~~###~~his wife have hereunto subscribed their names and affixed their seals,the day and year above written.

Joseph N.Ely (Seal)

Sarah S.Ely (Seal)

Virginia, Lee County to-wit;

January the 17th 1873, This day Joseph N.Ely and Sarah S. Ely his wife personally appeared before us W.W.Woodward and Vincent H.Kelly Justices for the County of Lee and State of Virginia an acknowledged their signature to the within Deed bearing date the 16th,of January 1873,to be their act and deed for the purposes within stated.Sarah S.Ely his wife having said said deed read and fully explained to her seperate and apart from her husband acknowledged the same to be her act and intent and did not wish to retract the same.Given under our hands and seals this the 17th day of January 1873.

V.H.Kelly J.P. (seal)

W.W.Woodward J.P. (seal)

Lee County Court Clerks Office the 24th day of November 1873.

The foregoing deed from Joseph N.Ely and Sarah S.his wife of the one part to William Pennington of the of the other part all of Lee county and state of Virginia is admitted to record



upon the certificates of W.W.Woodward and V.H.Kelly two Justices  
of the Peace in and for the county and State aforesaid.

Teste W.A.Orr, D.C.

A copy. Teste: B.M. Morgan, clerk.

(D.B.17, page I.)

C 337



Clark 35-

"B. M. 3"

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Virginia,

At a court begun and held for Lee County, at the court-house thereof on Monday the 18th day of April, 1859.

Tobias S. Pennington, Josephn Ely, Sarah Ely,

John P. Graham and America Graham, .....Complainants)

against

) In Chancery.

Mourning Pennington, Daniel Garrison, Virginia

Garrison, Amanda Pennington, and Martha

Pennington, . . . . . Defendants. )

This cause came on again ##### And it further appearing that there are three negro slaves which belonged at his death to the said Thomas Pennington, and that they could not be equally divided in kind amongst the said widow and heirs & some of the parties with the assent of the residue of them, being willing to take the said slaves and pay to those of them who get no slaves the excess of their value over the amount of their own respective shares in said slaves, and that they have been so distributed by the said commissioners. It is therefore further adjudged, ordered and decreed that the negro slave named Dennis be, and he is hereby assigned to the said widow Mourning Pennington as her dower in the said slaves at the value of one thousand and fifty dollars, and that she pay to the said heirs the sum of one hundred and ninety dollars, the value of her dower interest in the slaves being \$860.00, to which it appears by said report that she assents; and the negro slave named Jack be, and he is hereby assigned to the complt., Joseph Ely at the value of \$900.00, who consents as appears by the said report to take him at that value and to pay to the other heirs the sum of \$613.33 $\frac{1}{3}$ , that being the excess beyond the amount of his own share in said slave.



Virginia, Lee county, to-wit:

I, F.M. Morgan, clerk of the county court for said county, do certify that the foregoing is a true abstract copy from Deed Book No. 14, page 230., a record book in said office.

Given under my hand this the 2<sup>nd</sup> day of August, 1900.

B.M. Morgan, clerk.

6356



J. M. Smyth + J. Z. Ely <sup>advers.</sup>

vs { Extract from  
Decree

Elizabeth J. Punnington  
et al

Exhibit with depo-  
sition of B. M. Morgan

"B. M. 4"

Clerk 35



This deed, made this 25th day of November 1884, between C. L. Ewing and Carrie W. his wife, Mary H. Ewing, R. M. Bales and Margaret W. his wife, Harriet C. Ewing, Catharine E. Ewing, Napoleon E. Beatty and Zorah A. his wife, R. B. Beatty and C. T. Beatty his wife, Samuel E. Beatty and Sallie A. his wife, Cornie J. Beatty all of the County of Lee and State of Virginia, of the first part, and J. B. McLin, H. A. Bayless and David C. Campbell, Trustees of Mt. Carmel Church of the other part; Witnesseth, That the first named parties, for and in consideration of the sum of one dollar to them in hand paid by the said Trustees, have this day granted, bargained, sold and delivered to the parties of the second part, all our right, title and claim in and to a certain lot or parcel of land lying and being in the state and county aforesaid; being the same lot or parcel of land upon which Mt. Carmel Church now stands, and bounded as follows, viz: Beginning at a stake on the main road north of the old store-house of Dr. Joshua Ewing, thence running N.  $79^{\circ}$  E. 12 poles to a stake in the corner of



said church lot, Thence S. 15° E. about  
 15 poles to a stake, so as to make the  
 grounds equal in breadth on the north  
 and south sides of the Church; Thence  
 N. 87° W. to a stake one rod east of the  
 crib or old store house as the case may  
 be, thence N. W. to the Iron Works road  
 containing one and one eighth acres of land be the  
 and with that to the beginning; <sup>together</sup>  
<sup>same more or less</sup> with its appurtenances thereunto  
 belonging, to the said Trustees and  
 their successors forever. And the  
 first named parties do covenant to  
 and with the said Trustees that they,  
 the first named parties, will warrant  
 the right of the foregoing land free from  
 the claims of themselves, their heirs, or  
 of any persons claiming under us.  
 In Witness whereof we have hereunto  
 set our hands and seals the day  
 and date first written.

George A. Beatty	Seal	C. L. Ewing	Seal
Samuel M. Beatty	Seal	C. H. Ewing	Seal
Samuel A. Beatty	Seal	M. B. Ewing	Seal
W. B. Beatty	Seal	M. B. Ewing	Seal
Callie J. Beatty	Seal	Margaret E. Ewing	Seal
Cornelia J. Beatty	Seal	Catharine E. Ewing	Seal
	Seal	N. E. Beatty	Seal
		Margaret W. Beatty	Seal



Virginia Lee County & wit  
We John W. Woodward and S. S. Fullerton Justices of The Peace for The County and State  
afore said do certify that C. L. Ewing, The wife  
of C. L. Ewing and M. H. Ewing his sister and Margaret  
W. Bales The wife of R. M. Bales and Harriet C. Ewing  
and Catherine C. Ewing her sister and Zora A. Beatty  
The wife of N. E. Beatty and Sallie A. Beatty The wife of  
Samuel M. Beatty and Lottie J. Beatty The wife of  
R. B. Beatty and Cornie J. Beatty his sister whose  
names are signed to the above writing bearing  
date on 25<sup>th</sup> day of Nov 1884 Personally appeared  
before us in the said County and being  
examined <sup>by us</sup> ~~privately~~ and a part from their  
Husbands and having the writing afore-  
said fully explained to them They acknow-  
ledged that ~~they had willingly~~ ~~the~~ The said  
writing to be their act and that they had  
willingly executed the same and do  
not wish to retract it given under our  
hands This 2<sup>nd</sup> day of June 1885-

J. W. Woodward J.P.  
S. S. Fullerton, J.P.

Virginia Lee County court clerk's office the 21<sup>st</sup> day of Feb. 1886.

The foregoing deed bearing date Nov. 25<sup>th</sup> 1884, between C. L.  
Ewing & Carrie W. his wife, M. H. Ewing, R. M. Bales and  
Margaret W. his wife, H. C. Ewing, C. C. Ewing, N. E. Beatty  
& Z. A. his wife R. B. Beatty & C. J. Beatty his wife, S. M. Beatty  
& Sallie A. his wife & Cornie J. Beatty of the one part



X J. B. McLin, H. A. Bayless & David C. Campbell Trustees of  
Mt Carmel church of the other part, was this day filed in  
this office and admitted to record upon the certificates  
of Lee S. Fulkerson and J. W. Woodward two Justices of the  
peace for Lee county, Va.

Teste John R. Gibson clk.

State of Va: County of Lee to wit;

I Lee S. Fulkerson a J. P. for the county  
aforesaid in the State of Va do certify  
that R. M. Balrs, S. M. Braty R. B. Brate, C. L. Ewing.  
N. E. Brate whose names are signed to the <sup>about</sup> writing  
bearing date of the ~~25th day of Feb 1887~~ <sup>Nov. 25/84</sup> ~~June 1885~~ have acknowledged  
the same before me, in my county aforesaid.  
Given under my hand ~~XXXX~~ <sup>June 21/85</sup> Lee S. Fulkerson J. P.

C. L. Ewing, R. M. Balrs  
et ali.

To

Deed  
J. B. McLin et al  
Trustees of Mt.  
Carmel Church.

Recorded Deed

Book No 2, Page 354

J. R. Gibson. clk.

To Lee  
J. R. Gibson. clk.

Filed Feb. 21-1886

10/2  
188  
187 1/2



Joseph H. Clys last will and testament this the 20<sup>th</sup>  
day of January 1863 I Joseph H. Cly desire in the first  
place that all my just debts be paid and Funeral  
expenses also; in the second place I desire that after my  
Decease William H. France shall have five Hundred  
Dollars; <sup>it liveing if not liveing nothing</sup> and in the Third place I desire ~~that~~  
and Will all the remainder of what I am  
Possessed at my Decease Both Real and  
Personal to Sarah S. Cly my Wife I desire  
that she shall have the sole use and contrroll  
of it so long as she may live; And after  
her decease and all <sup>her</sup> just debts and Funeral  
expenses are paid I then desire one third of  
all my Estate at that time Both Real and Personal to  
be equally divided between my wife's Brothers and  
sister if liveing I will give their names Tobias S  
Pennington Virginia Garrison. America Graham now  
as Tobias S. Pennington and Virginia Garrison has all ready  
deceased I desire that their heirs shall draw their Part  
now if America <sup>Graham</sup> shall depart this life Before the above  
distribution of my Estate is made I will that



her heirs shall draw and equally divide her part,  
I desire and will the other two thirds of my Estate:  
both Real and Personal to be equally divided between  
my Brothers and sisters if living if not I desire  
the heirs of those that may have deceased before this  
distribution is made of my estate to draw their Fathers  
or mothers part and equally divide it between them  
I will give the names of my Brothers and sisters  
above referred to Jane Smyth; Elizabeth Branson  
Hiram Ely; Rachel Jones; Barbry Parsons Frances  
Bailey; Nimrod E. Ely, Rebecca Reaser; Polly Smyth  
Andrew J Ely

Joseph N. Ely  
John E. Burk  
John P. Graham  
Henry Graham

Virginia

At a County Court begun and held  
for Lee County at the Court house there  
of On Tuesday the 19 day of December 1882  
The last will and Testament of Joseph  
N. Ely was this day produced in  
Court and proved by the oaths of  
John P. Graham, John E. Burk &  
Henry Graham the subscribing  
witnesses thereto, and ordered to  
be recorded.

Attest

John R. Liban clk.



Joseph H. Ely  
Last Will.

---

Recorded In Will  
Book No 3. P. 553

J. R. Gibson clk

3d. R. 65-

Secs. Paid.



\$ 256,32 Jan 12<sup>th</sup> 1884

One day after date we or either of us binde our selves heirs &c,  
to pay Sarah S. Ely two hundred and fifty six dollars &  
thirty two cents ~~for~~ value received of her, and as to payment  
of this note we claim no protection from any law whatever,  
witness our hands and seals

William Pennington Seal  
Elkanah Pennington Seal



Wm  
Pennington  
to note  
\$256.32



Virginia Lee County to wit  
Sarah S. Ely plaintiff complains of  
William Pennington and Elkanah  
Pennington defendants who have been  
summoned &c. of a plea, that they  
render unto the plff the sum of two  
hundred and fifty six dollars and  
thirty two cents which to the plff they  
owe and from her unjustly detain  
for this that heretofore to wit on the  
first day of January 1884, the de-  
fendants made their certain writing  
obligatory sealed with their seals and  
signed with their signatures the date  
whereof is the day and year aforesaid  
by which said writing obligatory the de-  
fendants bound themselves jointly and  
severally to pay to the plff one day  
after the date thereof the said sum  
of \$256.32, and as to said debt-  
waived the benefit of the Homestead  
exemption.

Nevertheless the defendants have not nor  
have either of them although often requested so  
to do paid said sum of money or any  
part thereof to the plff, but the same or  
any part thereof to pay to the plff the de-  
fendants have each of them kept hidden wholly  
failed to refund & still, that said & refuse to the plff  
damages \$256.32. hence suit &c. A. S. Pendleton



We the jury find for the defendant  
 E. Pennington

J. H. Wink

Sarah A. Ely <sup>P.</sup>

v. J. Declr. Debt

William Pennington  
Bondholder:

1884. Octo. Decl filed Sum

Exd + Common order  
 " Novr. C. O. conf d

Office Judgt as to  
 Wm Pennington but left  
 E. Pennington recovers his  
 costs.

le.	4.97
3	1.50
AT	2.50
Co. le.	25
	<u>\$8.72</u>

Left E. Pennington recovers

le.	3.30
Co. le.	.25
A	2.50
	<u>\$6.05</u>

Diff costs \$1.71



Elkanah Pennington  
and  
Sarah S. Ely } Plea.

And the defendant says, that  
the said supposed writing obligatory in  
the said declaration mentioned is not his  
deed, and of this he puts himself upon  
the country.

J. B. Richmond, &  
Jr. orr for Dft.

Fingir

The county to wit:

This day Elkanah Pennington personally  
appeared before me the undersigned  
and made oath in due form of law  
that the matter stated in the annexed  
plea is true. Given under my  
hand this the 24<sup>th</sup> March 1885—

J. A. Stoyatt cc



Elkanah Pennington  
advs 3 Pica Non est fac  
Sarah & Ely.

---

1891 August 21



Virginia

At a circuit continued and held for Lee County at the Court-house thereof, on Monday March 30<sup>th</sup> 1885-

Sarah S. Ely

vs

Plaintiff  
In Debt

Wm Pennington & Elkanah Pennington, Defendants

6 4.97  
100.6 25-  
S 1.00  
A 250  
\$8.72

The defendant Elkanah Pennington having appeared and pleaded non est factum was dismissed with his costs. And the defendant William Pennington not appearing; It is considered by the Court that the judgment obtained in the Clerk's office against him for \$256.32 the debt in the declaration mentioned, with legal interest thereon from the 1<sup>st</sup> day of January 1884, till paid and the costs be made final

Teste: J. A. G. Hyatt Clerk

A copy

Teste: A. B. Munsey Clerk



Sarah S. Ely  
vs } Copy of Judgment  
Wm Pennington et al

---

Judgment

Clerk 25<sup>c</sup>



The Commonwealth of Virginia

To the Sheriff of Lee County; Greeting

We command you, That of the goods and chattels of Wm Pennington late in your Bailiwick, you cause to be made \$ 256.32 with legal interest thereon from the 1<sup>st</sup> day of January 1884, till payment, which Sarah, S. Ely, lately in our Circuit<sup>Court</sup> of Lee County has recovered against him by suit for Debt. Also \$ 8.72, which to the said Sarah, S. Pennington, in our Court were adjudged for her Costs in that behalf expended whereof the said Wm Pennington is convicted, as appears to us of record. And that you have the same before the Judge of our said Court at the Court-House on the first Monday in June next, to render to the said Sarah, S. Ely, of the Debt and the Costs as aforesaid. And have then<sup>and</sup> there this Writ. Witness J. A. G. Hyatt, Clerk of our said Court, at the Court House, this 2<sup>nd</sup> day of April 1885, in the 109 year of the Commonwealth.

J. A. G. Hyatt Clerk

A Copy

Leste A. B. Mursey Clerk.

C 4.97  
S 1.00  
Co. C 25-  
A 250,  
\$ 8.72



207 Circuit (P)  
Mr 30

Sarah S. Ely

Os { Fi Fa

William Pennington

To June Rules 1885

No property found.

R.D. Filanary  
S.L.C.

Fi. Fa.

Clerk 25<sup>cts</sup>



Inventory of the estate of Sarah S. Ely deceased which on this 27+28 days of April 1900 was sold by her Administrators to become due on January 1<sup>st</sup> 1901 without interest. Such Articles as were paid down for are so noted.

Name of Purchaser	Articles Sold	Amount
Robt. W. Orr	Box of old irons, note	10
do	1 <sup>st</sup> Red Cow note	45.00
"	2 Bacon Hams 50 <sup>#</sup> @ 12 $\frac{3}{4}$ "	6 37
"	2 " " 49 <sup>#</sup> @ 12 $\frac{3}{4}$ "	6 25
"	Rent of field near garden "	28 50
		<u>\$86 22</u>
F. B. Cox	3 boxes old irons note	80
do	Loom + fixtures "	65-
"	Large spinning wheel "	50
"	1 Bar + 6 crocks	60
"	Warping spools "	20
Emmet F. Cox	One black mare "	18 25-
F. B. Cox	4 boxes nails, hammer &c	10
do	2 crocks + Lard "	10
"	Coffee boiler &c "	23
"	3 dishes + butter plate "	00
Emmet F. Cox	1 set plates "	12
do	1 pitcher, 7 tumblers &c "	36
"	1 Glass lamp "	15-
F. B. Cox	1 Bacon side 44 <sup>#</sup> @ 12 <sup>c</sup> "	5 28
do	1 " Lard 26 <sup>#</sup> @ 12 $\frac{3}{4}$ "	3 31
"	25-lbs lard @ 9 $\frac{1}{2}$ "	2 38
"	5 <sup>th</sup> lot of 25-bu. corn 68 <sup>c</sup> "	17 00



	F. B. Cox	Bal. Corn in Large Crib 13 bu	✓ 8	45-
	Emmet F. Cox	Table Cloth	Note	38
	F. B. Cox	Window blind; box shot tools	11	30
	do	Whet Stone <sup>10c</sup>		✓ 10
			#145-	98
#145-98	Aunt. brought over		145-	98
	John J. Carter	Lot of old shovels & mattocks		105-
#31.35-	do	2 <sup>nd</sup> Red cow	Note	31 30
	James S. Parsons	3 bells & 2 reaphooks	"	✓ 15-
	do	98 lbs. Flour @ 2 $\frac{1}{4}$	"	✓ 2 20
	"	49 $\frac{3}{4}$ lbs side bacon 12 $\frac{1}{2}$	"	✓ 6 35-
#14.64	"	+ 47 $\frac{1}{2}$ " " " 12 $\frac{1}{2}$	"	✓ 5- 94
	F. B. Jesse	3 old mowing scythes	"	60
	do	1 box horse shoeing tools	"	✓ 65-
	"	1 small spinning wheel	"	✓ 1 35-
	"	old hames, chains, straps	"	✓ 20
	"	3 old hay forks	"	✓ 90
	"	Blacking brush, brass kettle	1.45-	✓ 1 50
5-90	"	Bucket	Note	✓ 70
	John G. Ely	Cradle & scythe; soap	2.75- 1.45- Note	✓ 4 20
	do	Jar honey, 1 bed cover	4.95- 2.00	6 95-
	do	bed cover; bed cover	.45- .35-	1 80
	"	bed cover doz. bags	1.00 1.05-	2 05-
	"	3 yds. flannel, curtains	60r 2.5-	85-
	"	Bed & bedstead	1.60 (25-	✓ 14 00
	"	pr. balances, pail & bucket	2.80 2.65- 50 ✓	1 85-
	"	Rifle gun; soap, seed cover	2.5- 15-	5- 95-
	"	Syringe; tooth brush & box		40



44.55	John G. Ely	Rent of Mulberryfield pasture	6 50
	John H. Pennington	Corn planter, barrels & kegs	75-
	do	Grain boxes, jar & 2 crocks	25-
	"	5-crocks & pitcher, bed & stead	18 90
	"	Stone Kettle; hay stack	11 25-
	"	Picture; 2 sheets	1 40
	"	3 rakes & locust log, sled & failings	5-1
49.06	"	Rent of grave yard field	16 00
#291.48	Carried Over		291 48
291.48	Brought Over		291 48
	J. T. Hughes	Reel, Ceiling	2 05-
	do	+ Crosstie wood; trunk	40
	"	shucks; 5.5# bacon @ 12	7 80
	"	25-lbs lard; lounge bed	3 00
	"	Mirror; 8 1/8 bu corn	5 24
20.49	"	Rent for pasture on Big hill	2 00
	J. M. Smyth	Soap; Molasses	76
	do	Coverlet; Doz. Silver spoons	4 06
	"	Empty bottles; Stone boiler	67
57.94	"	Pot, bucket & pan; tumblers, jelly	45-
	Joseph Eley (Porter)	5-bu wheat @ 19; 10-bu @ 81	16 10
	do	Boards, shingles, Baker & lid	8 65-
	"	Baker & lid, 2 pans, table & cloth	75-
	"	Pitcher, 3 glasses & jelly	25-
30.62	"	50 lbs. Lard @ 9 1/2; lard tub	4 87
	Hiram H. Eley	bbl. vinegar, chest	3 60
	do	Clothes wire, Dog iron	1 20
	"	47 lbs. Bacon @ 12; 26 Ham @ 12 1/2	8 89
22.56	"	14 1/4 bu. Corn @ 60	8 87



7.20	Chas. Short	2 bee stands	Note	7 20
	W. T. Gillee	2 " "	"	6 15
	do	30 doz. rats @ 19	"	5 70
16.89	"	14 bu. shattered Corn @ 36¢	"	5 04
82.50	M. K. Graham	Gray mare & colt	Note	82 50
76.50	J. H. Graham	Gray horse	do	76 50
25.60	Fred P. Brooks	3 <sup>rd</sup> Red Cow	do	25 60
32.30	J. H. Wilson	9 hogs	do	32 30
	E. E. Johnson	plow gears, 2 crs. apple butter	"	2 25
7.05	do	red covers, counterpane	"	4 80
10.64	Bailey & Feltner	185-bb chickens @ 5 <sup>3</sup> / <sub>4</sub>	Note	10 64
629.77				629 77
629.77	Aunts, brought over			629 77
	E. R. Garrison	2 quilts; blanket	Note	3 40
	do	bed & stead, 2 crs. apple butter	"	8 70
14.20	"	4 hens & chickens; bible	"	2 10
10.00	Geo. W. Smith	Bed & stead	Note	10 00
	E. P. Garrison	Plow gears; stellyards	Note	1 30
	do	Side bacon 47 <sup>th</sup> @ 12	"	5 64
	"	2 bbs. & salt, 17 bu. corn @ 43	"	8 05
16.55	"	Table Cloth, Pistol	"	1 56
	Thomas Johnson	7 old axes; bed & stead	Note	11 65
	do	3 augers; 2 baskets	"	90
	"	42 doz. rats @ 20¢	"	8 40
	"	5-table clothes	"	1 68
23.14	"	Pillow shams; pillow slips	"	51
	Creed Killee	Wood, wagon,	Note	20 70
	do	old nails, door locks &c	"	50



40.95	Creed Hilley	25 bu. Corn @ <sup>16.75-V</sup> 67 <sup>3.00</sup> ; rent note	19.75
	Ad M. Olinger	Oliver plow; poplar chest <sup>6.00-V</sup> " <sup>85<sup>+</sup></sup>	✓ 6 85-
	do	8 chains; Sewing machine <sup>2.85<sup>+</sup></sup> " <sup>13.50<sup>V</sup></sup>	✓ 16 05-
34.50	"	Safe top, narrow <sup>8.60<sup>V</sup></sup> " <sup>3.00<sup>V</sup></sup>	✓ 11 60
	M. F. Litton	2 counterpanes, side saddle note <sup>2.85<sup>-V</sup></sup> " <sup>13.40<sup>V</sup></sup>	✓ 16 25-
19.25-	do	1 doz. bags, silver knives & forks <sup>1.20<sup>V</sup></sup> " <sup>1.80<sup>V</sup></sup>	✓ 3 00
	J. G. Reason	Cook stove & vessels note	✓ 13 60
14.05-	do	Tea cups & saucers; tumblers &c <sup>25<sup>-V</sup></sup> " <sup>20<sup>V</sup></sup>	✓ 45-
17.90	Temu, Smyth	2 lbs nails; 25 bu corn @ 70 note <sup>.40</sup> " <sup>17.50<sup>V</sup></sup>	✓ 17 90
7.10	A. L. Tritt	55 lbs. Bacon sides @ 12 <sup>3</sup> / <sub>4</sub> " <sup>1</sup> / <sub>2</sub>	✓ 7 10
20.12	Chas. Harrison	161 " " " @ 12 <sup>1</sup> / <sub>2</sub> " <sup>1</sup> / <sub>2</sub>	✓ 20 12
6.38	Temu, Smyth	51 " " " 12 <sup>1</sup> / <sub>2</sub> " <sup>1</sup> / <sub>2</sub>	✓ 6 38
	L. P. Ely	42 " " " 12 <sup>1</sup> / <sub>2</sub> " <sup>1</sup> / <sub>2</sub>	✓ 5-25-
	do	24 " " " 12 <sup>3</sup> / <sub>4</sub> " <sup>1</sup> / <sub>2</sub>	✓ 3 86
9.71	do	2 chambers; table cloth <sup>30<sup>+</sup></sup> " <sup>1.10<sup>V</sup></sup>	✓ 1 40
863.62	Aunts Carried over		863 62
863.62	Aunts brought over		863 62
18.75	J. P. Kelley	25 bu. Corn @ 75- note	✓ 18 75-
34.75	W. M. Stewart	25- " " @ 70 + 25 bu @ 69 <sup>2</sup> " <sup>1</sup> / <sub>2</sub>	✓ 34 75-
	Jas. P. Ely	5 bu potatoes @ 50 " <sup>1</sup> / <sub>2</sub>	✓ 2 50
8.65	do	Rent of garden "	6 15-
25.00	J. B. & L. B. Ely	Rent for <sup>1</sup> / <sub>2</sub> Hughes field "	25-00
950.77	Notes taken for this sum		950 77
	N. S. Cooy	Shovel + Mattock, sieve <sup>35<sup>-V</sup></sup> Pd <sup>45<sup>+</sup></sup>	✓ 80
2.50	do	Hand Saw; 4 shovels <sup>1.10<sup>V</sup></sup> " <sup>6.00<sup>V</sup></sup>	✓ 1 70
	George Ely	3 old bells + 2 reap hooks "	✓ 10
	do	2 mauls + wedges "	✓ 20
	do	4 Crocks, plow stock <sup>47</sup> " <sup>10</sup>	5-7
	"	Frying pan, Bellows, wrench &c <sup>35<sup>-V</sup></sup> " <sup>25<sup>-</sup></sup>	60



2.82	George Ely	<sup>10</sup> Coffee mill, oil can, picture, <sup>1.05-</sup> spoons	✓	15-
	"	<sup>20</sup> Table, lamp &c	✓	20
	A. J. Ely	<sup>95-</sup> Cradle & <sup>3.5-</sup> ceythe, 4 <sup>2.05-</sup> old bedles	✓	1 50
	do	<sup>12</sup> 2 pad locks, <sup>2.05-</sup> bed quilt	✓	2 17
	Elbert Myers	Ceythe, Cradle & old. ceythe	✓	1 30
	Henry Jackson	<sup>25-</sup> 3 joints stone pipes, <sup>50</sup> 3 augers & <sup>50</sup> chisel	✓	75-
	A. J. Reason	<sup>61</sup> 14 old plows, <sup>20</sup> 1/2 bu. meas. <sup>60</sup> bucket	✓	1 41
	Rich W. Ely	<sup>25-</sup> Corn planter, <sup>70</sup> pat wash tub	✓	95-
	do	<sup>21</sup> Audirous, <sup>54</sup> Trunk, <sup>55-</sup> 5 chairs	✓	1 30
	S. T. Goldiron	<sup>10</sup> 1/2 bu. measure, 2 racks & <sup>3</sup> beans	✓	25-
	J. P. Kelly	<sup>10</sup> Hand saw, <sup>3</sup> seed, <sup>5-</sup> broom	✓	18
	Thomas Luntford	<sup>1.35</sup> Soap, <sup>5.00</sup> son, <sup>30</sup> 12 fruit <sup>50</sup> cans	✓	6 85-
	do	2 bed quilts	✓	30
	Jas. H. Ely	<sup>1.10</sup> Large kettle, <sup>16</sup> old cupboard	✓	1 20
	Robt. W. Smyth	10 hoes & <sup>25-</sup> grind stone	✓	47
	do	<sup>1.65</sup> Cutting knife & <sup>56</sup> box, <sup>4.87</sup> double plow	✓	1 90
	Sue C. Smyth	<sup>8.80</sup> Pickles & <sup>1.00</sup> stand, 4 quilts	✓	5 43
	Tone Williamson	3 bee stands, wheel barrow	✓	9 80
Aunt. Over				\$41 78
Aunt brought Over				41 78
	Sam Cecil	16 empty bee gums		65-
	Geo. W. King	Heifer calf	✓	15 30
	W. H. Gray	pr. old gears	✓	23
	John Rivers	plow & stock	✓	1 50
	Alex Carnes	old plow & stocks	✓	50
	Sam W. Alinger	ax, yoke, double tree, chain, stretchers	✓	1 50
	Chas. Waholen	Honey	✓	1 65-
	H. F. Kilburn	8 filled fruit cans	✓	1 20



Joc Brewer	<sup>1.25-V</sup> 2 quilts; <sup>65+50</sup> 6 sheets	✓	2 40
J. M. Cecil	2 blankets	✓	4 00
Henry Myers	<sup>1.30-V</sup> blanket, <sup>1.10-V</sup> Baker & lid	✓	1 40
Mr. E. Orr	<sup>60-V</sup> Counterpane, <sup>35-V</sup> brass kettle		95-
Frank Wilson	1 Doz. bags	✓	1 33
W. M. Bailey	4 sheets	✓	65-
D. S. Reason	<sup>85-V</sup> 4 sheets; <sup>1.00-V</sup> 2 baskets	✓	1 85-
Geo. H. Myers	<sup>60-V</sup> 2 chairs, <sup>3.46-V</sup> cupboard, <sup>40-V</sup> saddle blanket	✓	4 40
do	<sup>70</sup> Sausage mill	✓	70
Sarah E. Myers	<sup>1.40</sup> quilt	✓	1 40
F. F. Belcher	2 chairs	✓	55-
J. D. Russell	16 yds. Domestic	✓	1 05-
D. H. Howard	<sup>30</sup> Clothes brush	✓	30
Geo. Smyth	<sup>60-V</sup> Sheep shears, <sup>20</sup> books		80
Jane Tritt	Large spoon	✓	12
Sarah A. Ely	<sup>25-V</sup> Small brass kettle, <sup>20-V</sup> table & pan	✓	45-
John H. Ely	<sup>35-V</sup> X Cut saw	✓	35-
Geo. Spangler	<sup>35-V</sup> 2 slop buckets, <sup>2.15-V</sup> saddle bags		2 50
L. B. Ely	<sup>10</sup> 2 Jugs	✓	10
Mary Kelly	<sup>16-V</sup> Skillet, <sup>65-V</sup> teacups & saucers	✓	75-
Phoebe Graham	<sup>17-V</sup> Fire shovel, <sup>11-V</sup> bread & pie pans	✓	28
do	preserve & dessert dishes	✓	21
"	<sup>18</sup> Glass dishes, <sup>6</sup> Crock		24
			\$90 61
Henry Myers	<sup>1.5-5-V</sup> 1 pr. Check lines, <sup>15-V</sup> Baker &c	✓	1 65-
E. L. Stewart	<sup>15-V</sup> Blanket, <sup>15-V</sup> pillow slips	✓	30
Mirre Pennington	<sup>16-V</sup> 2 buckets & pan		05-
Geo. P. Ely	<sup>10-V</sup> Saddle, <sup>10-V</sup> Brooms	✓	20
L. W. Myers	<sup>15-</sup> Buckets, <sup>5-0</sup> pans & cups, knives &c	✓	65-



L. W. Myers	30 <sup>✓</sup> 18 <sup>✓</sup> pan, bottles & belt, umbrella	✓ 48
Louise Eley	25 <sup>✓</sup> 05 <sup>✓</sup> Tray, bucket & dipper	✓ 30
do	1.00 <sup>✓</sup> 10 <sup>✓</sup> 5 <sup>✓</sup> Clock, pad lock, chains	✓ 1 15
H. B. Ely	15 <sup>✓</sup> 2.50 <sup>✓</sup> Lantern, 25 lbs lard	✓ 2 65
do	10 <sup>✓</sup> 400 <sup>✓</sup> Table 24 Dg. oats @ 16 $\frac{2}{3}$	✓ 4 10
L. M. Gion	36 <sup>✓</sup> Plates	✓ 36
S. L. Parsons	15 <sup>✓</sup> 41 <sup>✓</sup> 25 <sup>✓</sup> 2 Cov. dishes, plates, lard	81
W. R. Gary	20 <sup>✓</sup> 25 <sup>✓</sup> 15 <sup>✓</sup> Dish, books, table cloth	68
do	15 <sup>✓</sup> 16 <sup>✓</sup> Window curtains, pillow slips	26
Thomas Graham	2 small dishes	25-
Lee Ripson	25 <sup>✓</sup> 15 <sup>✓</sup> Dish, old cups & saucers	✓ 35-
H. B. Graham	Salt Set	✓ 05-
H. C. Ely	15 <sup>✓</sup> 25 <sup>✓</sup> 15 <sup>✓</sup> 2 glass jelly, lamp, book	✓ 55-
do	oats	✓ 25-
Betty Reaxor	Spoon holder	✓ 10
Sarah A. Ely	12 <sup>✓</sup> 12 <sup>✓</sup> Baking powders, minor	24
Sam R. Cox	Dishes & sugar bowls	15-
John B. Ely	Plates, bowls & dish	12
A. L. Tritt	2 bacon bowls	✓ 26
J. M. Smyth	21 <sup>✓</sup> 5 <sup>✓</sup> 4.65 <sup>✓</sup> 4 pails, soap, ropes, 7 bacon	✓ 5 02
John Kirk	80 <sup>✓</sup> 1.45 <sup>✓</sup> Churn, table	2 25-
Mary Pennington	10 <sup>✓</sup> 10 <sup>✓</sup> Sifter	10
Tem. L. Smyth	15 <sup>✓</sup> Hackle & buckets, Coffee mill	15-
Louzo Ely	10 <sup>✓</sup> 2 tubs	10
Ad. M. Clieger	76 <sup>✓</sup> 2 baskets	✓ 70
		114 81
Aunt. brought over		114 81
Jane Ely	Satchel	15-



W. S. Ely	Book <sup>10</sup>	✓	10
A. H. Gion	Hand towels, wool cards, shears <sup>30</sup> ✓	✓	75
Bele Ely	4 towels <sup>5-</sup>	✓	30
J. M. Smythe	6 pillow slips, oil paint &c <sup>38</sup> ✓	✓	73
J. J. Ely	4 towels, picture &c, Flax <sup>20+15-</sup>	✓	50
Sarah A. Ely	table, Combs <sup>25-</sup>	✓	95
J. T. Hughes	Whip, stone wood <sup>10</sup> ✓	✓	35
B. B. Cox	Candle molds, oats corn & hay <sup>06</sup> ✓	✓	2 28
Creed Kiley	Candles, brooms <sup>10</sup> ✓	✓	15
Harry Barton	41 doz. oats @ 16 $\frac{2}{3}$	✓	6 83
L. P. Ely	Plow beam & handles	✓	25
Irma Suavely	Sack	✓	10
George Peters	Lounge bed, tick & quilt &c	✓	2 25
Charles Ely	Plates	✓	65

Cash received at Sale 130 86

Notes taken 950 77

Total Sale bill & rents \$1681 33

Total for rents 87 15

Total for personal property \$994 18

We rented the lands by the consent of those in interest present on day of Sale. The lessee's are to give possession by Jan. 1st, 1901; or immediately after Nov. 1900, Circuit Court if required. Given under our hands this May 10th 1900

John M. Smythe  
John J. Ely } Advers.



Inventory of Notes &c payable to Sarah S. Ely dec'd and which have come to our hands this April 26<sup>th</sup> 1900.

- (1) Note signed by M. P. & D. P. Ely dated April 14/97 & due 1 day after date 20 00
- (2) Note signed by J. H. & E. T. Krahame dated April 30<sup>th</sup> 1898 due 1 day after date 50 00
- (3) Note signed by Lora E. Rich & J. H. P. Kelly dated April 14, 1897 & due 1 day after date 159 00
- (4) Note signed by G. L. & J. M. Shelburne dated Nov. 16, 1899 & due 12 months after date 100 00
- (5) Note dated 4/11/98 & signed by J. H. Pennington and due one day after date 2921
- (6) Note dated 10/11/99 signed by J. H. Pennington & due 1 day after date 20 00
- (7) Note dated 4/5/99 signed by J. H. Pennington & due one day after date 20 00
- (8) Note dated 11/1/99 signed by J. H. Pennington and due one day after date 35 06
- (9) Note dated 8/22/99 signed by W. T. Kelley & due 1 day after date 87 50
- (10) Note dated Jan 1<sup>st</sup> 99 signed by J. J. C. Flannery & Bro. and due 1 day after date 626 51
- (11) Note dated Oct. 26/99 signed by W. T. Dr. J. M. Smyth Jr. & John Smyth, due 1 day after date 100 00
- (12) Note dated 1/4/99 signed by S. E. Shelburne & J. F. Witt & due 1 day after date 100 00
- (13) Two Notes each dated 10/2/99 signed by John B. Myers & J. H. Pennington & each \$100.00 & due 1 day



after their date	200 00
(14) Note dated 4/25/99 & signed by J. H. Pennington and John P. Myers & due 1 day after date	200 00
Amt. Carried over	1752 28
Amount brought over	1752 28
(15) Note dated 1/1/99 & signed by W. T. & M. S. Killey and due one day after date	220 41
(16) Note dated Jan. 1/1/900 signed by H. B. Kra- ham and due 1 day after date	100 00
(17) Note dated 1/4/99 signed by John P. Myers and L. P. Ely & due 1 day after date	113 00
(18) Note dated Nov. 14/99 signed by G. V. & L. C. Shelburne & J. F. Witt & due 1 day after date	600 00
(19) Note <sup>dated</sup> <del>signed</del> 3/2/99 signed by D. L. Jesse & due 1 day after	106 00
(20) Note dated 12/6/99 signed by Sam Cecil & J. G. Ely & due 1 day after date	25 00
(21) Note dated 1/10/1900, signed by Samuel Tritt & J. F. Witt & due 1 day after date	100 00
(22) Note dated 1/6/1900 signed by R. F. Oakley and A. J. Cox and due 1 day after date	78 00
(23) Note dated 3/30/1900 signed by John S. Ely and W. P. M. Stewart and due 1 day after date	100 00
(24) Note dated 2/12/1900 signed by Orlena & J. K. Parsons & John M. Smyth Jr. & due 1 day after	100 00
(25) Note dated 3/26/1900 signed by J. T. & A. J. Hughes & due 1 day after date	10 00
(26) Note dated 3/3/1900 signed by A. J. Sanner	



due 1 day after date			30 00
(27) Note dated 2/5/1900 signed by J.D. Russell and W. N. S. Baron & due 1 day after date			50 00
(28) Note dated 1/18/1900 signed by E. B. Litton & W. T. Killey & due 1 day after date			25 00
(29) Note dated 2/24/1900 signed by John P. Kelly and W. V. Barker and due 1 day after			130 00
(30) Note dated 3/16/1900 signed by J. B. Wolf & J. B. Bygal & due 1 day after date			250 00
Amt. Carried forward			\$3789 69
Amt. brought forward			3789 69
(31) Note dated 3/3/1900 signed by W. V. Barker and John P. Kelly, due 1 day after date			40 00
(32) Note dated 2/24/1900 signed by America L. Graham due 1 day after date			212 00
(33) Note dated 5/8/96, signed by H. J. & M. E. Russell and due 1 day after date			50 00
(34) Note dated 1/1/98 signed by J. F. & E. J. Skiff & due 1 day after date			78 00
(35) Note dated 5/3/94 signed by H. H. Ely and	6	31	
for Int. from 5/3/94 to 9/24/94		17	
	6	48	
Cr. on Note 9/24/94	5	00	1 48
(36) Note dated 2/13/97, signed by F. B. & M. E. Cox	10	00	
Int. from 2/13/97 to 4/19/99		125	
	11	25	
Cr. on Note dated 4/19/99	2	90	8 35
(37) Note dated 1/1/96, signed by J. J. & Mary P. Ely,	347	92	
Int from 1/1/96 to 1/1/1900	83	50	
	431	42	
Cr. on Note 1/12/98 \$20.00 + 1/1/1900 \$32.50	52	50	478 92



(38) Note dated 12/8/97, signed by J. K. P. Kelly	252	49		
Int. from 12/8/97 to 11/26/98	13	23		
Cr. on note dated 10/26/98	265	72		
	27	64		
Int. from 10/26/98 to 11/15/98	238	68		
	15	04		
Cr. on note endorsed dated 11/14/99	253	12		
	52	86	200	26

(39) Note dated 11/27/96 signed D. L. & Co. Inc. Jesse, H. T. Parsons, E. K. Pennington H. H. Hobbs, J. B. Barker & A. K. DeBusch	310	00		
Int. from 11/27/96 to 11/27/97	18	00		
	318	00		
Cr. endorsed on note dated 11/27/97	18	00		
	300	00		
Int. from 11/27/97 to 11/27/98	18	00		
	318	00		
Cr. on note 11/27/98	18	00		
	300	00		
Int. from 11/27/98 to 8/27/98	10	50		
	310	50		
Cr. 8/27/98 endorsed on note	25	00		
	285	50		
Int. from 8/27/98 to 11/27/99	7	14		
	292	64		
Cr. on note 11/27/99	17	36	275	28
Ant. Carried forward			\$5133	98
Ant. brought over			\$5133	98

(40) Note dated 8/4/95 signed by J. E. Graham	450	00		
Int. from 8/4/95 to 11/9/1900	119	50		
	569	50		
Cr. on note 11/9/1900	100	00	469	50

(41) Note dated 1/1/95 signed by J. E. & J. H. Graham	379	61		
Int. from 1/1/95 to 12/16/96	44	60		
	424	21		
Cr. 12/16/96 on note	75	00		
	349	21		
Int. from 12/16/96 to 9/25/97	16	29		
	365	50		
Cr. on note 9/25/97 \$20.00 + 9/29/97 \$3.00	23	00	342	50

(42) Note dated 2/17/98 signed by F. P.				
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Bungardner & J. F. Witt	200 00		
Int. from 2/17/98 to 2/17/99	12 00		
	212 00		
Cr. on note dated 2/17/99	12 00	200 00	
(43) Note dated 3/31/97 signed by J. H. P.			
Barron & C. S. Flannery	400 00		
Int. from 3/31/97 to 3/9/1900	72 00		
	472 00		
Cr. 4/1/99 \$2000, 4/1/97 \$29.44 + 3/9/1900 \$24.00	23 44	398 56	
(44) Note dated 1/10/98 signed by R. W. & E. D. Orr	124 72		
Int. from 1/10/98 to 1/10/99	13 48		
	238 20		
Cr. on note Jan. 10, '99	13 48		
	224 72		
Int. to Jan. 10, 1900	13 48		
	238 20		
Cr. on note Jan. 10, 1900	145 20	93 00	
(45) Note dated 4/19/98 signed by John K. Smith	15 00		
Int. from 4/19/98 to 4/19/99	90		
	15 90		
Cr. 4/19/99	90	15 00	
(46) Note dated 11/13/96 signed by W. L. Parsons & W. S. Hurst due Jan 1 <sup>st</sup> 1898	106 80		
Cr. on note Dec. 28/97	70 00		
	36 80		
Int. from 1/1/98 to 1/1/99	2 20		
	39 00		
Cr. Jan 1 <sup>st</sup> 1899	2 10	36 90	
Carried forward		6689 44	
Amount brought over		6689 44	
(47) Note dated 9/24/95 signed by H. B. & Joseph Rely	25 00		
Int. to 7/25/98	4 25		
	29 25		
Cr. on note 7/25/98	5 00		
	24 25		
Int. from 7/25/98 to 12/26/98	60		
	24 85		
Cr. Dec. 26, '98	1 40		
	23 45		
Int. from 12/26/98 to 8/30/99	95		



	Cr. Aug 30, '99	24	140	
		5-	00	
	Aut. to 10/4/99	19	40	
			10	
	Cr. 10/4/99	19	5-0	
		5-	00	
	Aut. to 12/22/99	14	50	
			20	
	Cr. Dec. 22, '99	14	70	
		5-	00	
	Cr. by Aut. endorsed on note to 7/25/98	9	70	
		4	25-	5-45
(48)	Note dated 7/24/92 signed by L. W. Gion + R. E. Litton		300	00
	Aut. from 7/24/92 to 6/7/93	16	50	
		316	50	
	Cr. June 7, 93	18	00	
		298	50	
	Aut. from 6/7/93 to 7/23/94	19	40	
		317	90	
	Cr. July 23, '94	18	00	
		299	90	
	Aut. from 7/23/94 to 7/23/95-	17	90	
		317	89	
	Cr. July 23, '95-	18	00	
		299	89	
	Aut. from 7/23/95- to 6/21/97	34	47	
		334	36	
	Cr. June 21 <sup>st</sup> 1897	36	00	
		298	36	
	Aut. from 6/21/97 to July 22/99	37	26	
		335	62	
	Cr. July 29/99	36	00	299 62
(49)	Note dated 1/1/92 signed by E. K. Pennington + D. L. Jesse		200	00
	Aut. from Jan 1/92 to 1/5/95-	36	00	
		236	00	
	Cr. Jan 5 <sup>th</sup> 1895-	50	00	
		186	00	
	Aut from 1/5/95 to 10/24/95-	10	05	
		196	05-	
	Cr. Oct 24 <sup>th</sup> 1895-	30	00	
		166	05-	
	Aut. from 10/24/95 to 2/28/99	31	55-	
		197	60	
	Cr. 5/17/97, \$10.00, 3/10/98, \$10.00 + 2/28/99, \$10.00	30	00	167 60
	Aut. Carried over			\$7162 11
	Aut. brought over			\$7162 11



(50)	Note dated 1/1/99 signed by L. D. & John P. Myers	122	41		
	Int. from 1/1/95 to 1/2/1900	36	70		
	Cr. Jan 2, 1900	159	11		
		100	00	59	11
(51)	Note dated 1/24/96 signed by K. W. H.				
	+ Sarah E. Myers	100	00		
	Int. from 1/24/96 to 9/14/97	4	85		
	Cr. Sept 12, '97	104	85		
		6	00		
	Int. from 9/14/97 to Oct 18, '98	98	85		
	Cr. Oct. 18, 1898	6	50		
		105	35		
	Int. from 10/18/98 to Sept. 20, '99	6	00		
	Cr. Sept. 20, '99	99	35		
		5	50		
		104	85		
		6	00		
		98	85		
		50	00	148	85
(52)	Note dated 1/4/99 signed by E. M. Gilbert				
	R. L. Lucas + E. S. Flanary	500	00		
	Int. from 1/4/99 to Jan 4, 1900	30	00		
	Cr. Jan 4 <sup>th</sup> , 1900	530	00		
		30	00	500	00
(53)	Note dated 12/27/98 signed by E. R.				
	Aistrop + W. P. M. Stewart	75	00		
	Int. from date to Dec. 26 <sup>th</sup> 1899	4	50		
	Cr. Dec 26, 1899	79	50		
		4	50	75	00
(54)	Note dated 1/4/99 signed by A. J. Litton				
	+ Harve Leecil	100	00		
	Cr. Jan 4, 1899	6	00		
	Int. to Jan 1, 1900	94	00		
	Cr. Jan 1 <sup>st</sup> 1900	5	64		
		99	64		
		6	00	93	64
(55)	Note dated 8/27/98 signed by				
	James Parsons + Tony Williamson	25	00		
	Int. from date to 9/4/99	1	28		
	Cr. Sept 4 <sup>th</sup> 1899	26	28		
		15	00		



Int. from 9/4/99 to Dec 10, 99		11	28		
Per. Dec 10, '99		11	18		
		8	46	3	39
Amount Carried forward				8042	10
(56)	Note dated 1/1/1900; signed by Wm. Sweeney	283	34		
Int from its date to 3/21/1900		3	82		
Per. March 21/1900		287	16		
		50	00	237	16
(57)	Note dated 11/1/94, signed by A. F. & J. S. Cox	50	00		
Int on same from date to 11/16/95		3	13		
Per. Nov. 16/95		53	13		
		3	00		
Int from 11/16/95 to 11/10/96		50	13		
		3	00		
Per. Nov. 10/96		53	13		
		3	00		
Int from 11/10/96 to Oct 26/97		50	13		
		2	95		
Per. Oct 26/97		53	08		
		3	00		
Int from 10/26/97 to Nov 19th 1898		50	08		
		3	08		
Per. Nov 19th 1898		53	16		
		3	00		
Int from 11/19/98 to 10/13/99		50	16		
		2	84		
Per. Oct 13/99		53	00		
		3	00		
		50	00	50	00
(58)	Note dated 9/1/87; signed by C. L. Naublen	257	74		
Int from 9/1/87 to 2/19/89		22	55		
Per. Feb. 19th 1889		280	29		
		50	00		
Int from 2/19/89 to 12/29/90		230	29		
		25	71		
Per. Dec 29th 1890		256	00		
		100	00	156	00
(59)	Note dated 2/12/87 signed by J. G. Yeary + Jas H. Spangler	70	00		
Int from date to 9/21/1889		10	95		
Per. Sept 21/89		80	95		
		20	00		
Int. from 9/21/89 to 8/16/94		60	95		
		17	92		
		78	87		



Per Aug 16 /94	48	80	
	30	00	
Int. from 8/16/94 to 3/25/96	48	84	
	4	80	
Per March 25/96	53	64	48 64
	5	00	
Total amt. of notes that came to our hands			8533 93
Cash received			
At her house after her death			80 48
"Remington Gap Bank to her credit			46 43
Check signed by J. A. G. Hyatt			
& paid to us			500 00
Total			636 91

Recapitulation:	
Amount of notes of all kinds	8533 93
Cash rec'd, check & cash in Bank	636 91
Sale bill for which notes were taken	930 77
Cash received at sale for personally	130 86
Total value of Estate	10252 17

John M. Smyth  
John J. Ely 3 Admsrs.

Virginia Lee county, to wit:-  
I, Robt L. Remington Comr. of  
Cts for the County Court for Lee County  
do certify that the foregoing Sale Bill  
& Inventory of the estate of Sarah S. Ely  
was this day presented to me for ap-  
proval & having examined the same &  
found the same & found the same



in proper form, they are each hereby  
approved for recordation. Given un-  
der my hand this the 21<sup>st</sup> day of  
May, 1900.

Robt L. Pennington, Commr.

Virginia, Lee County, to wit:

In the Office of the clerk of the  
county court for said county, the  
22<sup>nd</sup> day of May, 1900. This inven-  
tory was presented and together  
with the Certificate thereto an-  
nexed, admitted to record.

Teste: B. M. Morgan, clerk

A copy, Teste: B. M. Morgan, clerk



Sarah S. Ely  
Appraise &  
Sale Bills

Clear \$4.50



CERTIFICATE OF  
~~ORDER OF~~ PUBLICATION.

I, A. M. Goins, Editor of the SOUTH-  
WEST VIRGINIAN, a weekly newspa-  
per published at Jonesville, Lee County,  
Va., do hereby certify that the annex-  
ed notice was published in said paper  
once a week for four successive weeks,

commencing on the 13<sup>th</sup> day of

December, 1900.

A. M. Goins, EDITOR.

FEE, \$ 9 20  
100

# Land Sale.

JOHN Z. and MARY P. ELY }  
vs, } In Ch'cy,  
J. M. SMYTH et als.

To carry out the decree entered in the  
above styled pending cause, on the 17th  
day of November, 1900, now in the Circuit  
Court of Lee County, we will proceed at  
the front of Lee courthouse on the 21st  
day of January, 1901, and at public out-  
cry, to the highest bidder, to sell the fol-  
lowing described property, to-wit:

(1) The tract of land conveyed by J. T  
Hughes et als to Sarah S. Ely, and said to  
contain eleven acres and commonly known  
as the "Hiram" bottom.

(2) The tract of land devised to Joseph  
N. Ely by his father, and said to contain  
about seventy acres, and joins the lands of  
John Z. Ely and others.

(3) The tract of land which G. W.  
Hughes and wife on Oct. 19th, 1868, con-  
veyed to Joseph N. and Sarah S. Ely  
jointly, and said to contain twelve acres.

(4) And the residue of the lands of  
Joseph N. and Sarah S. Ely and known as  
the "Home Place."

These are valuable lands—good wa-  
ter and timber on them. Sales to be made  
as to acreage at the hazard of the pur-  
chaser. Sales to be made upon the fol-  
lowing terms, to-wit: Enough cash to  
pay cost and commission, and the remain-  
der in two equal installments due in one  
and two years from the date of sale. The  
purchaser will be required to execute  
bonds bearing interest from the date of  
sale with good personal security.

This 12th day of December, 1900.

E. W. PENNINGTON and  
J. C. NOEL,

Special Commissioners.

The bond required by the Court of said  
Commissioners has been given before me.

This the 12th day of December, 1900.

A. B. MUNSEY, Clerk.



Notice of Land Sale.

ORDER OF PUBLICATION.

John B. & Mary P. Ely

VS.

IN CHANCERY.

J. M. Smyth et al.

FEE

\$9  $\frac{20}{100}$



# LAND SALE!

John Z. and Mary P. Ely

vs

J. M. Smyth et als

IN CHANCERY.

To carry out the decree entered in the above styled pending cause, on the 17th day of November, 1900, ~~1899~~, now in the Circuit Court of Lee County, <sup>we</sup> I will proceed at the front door of Lee courthouse on the <sup>21st</sup> day of January, 1901, ~~1899~~ and at public out-cry, to the highest bidder, to sell the following described property, to-wit:

- (1). The tract of land conveyed by J. T. Hughes et als to Sarah S. Ely, and said ~~to~~ contain eleven acres, and commonly known as the "Hiram" bottom;
- (2). The tract of land devised to Joseph N. Ely by his father, and said to contain about seventy acres, and joins the lands of John Z. Ely and others;
- (3). The tract of land which G. W. Hughes & wife on Oct. 19th., 1868, conveyed to Joseph N. & Sarah S. Ely jointly, and said to contain twelve acres; and,
- (4). The residue of the lands of Joseph N. & Sarah S. Ely and known as the "Home-pleace". These are valuable lands; Good water and timber on them. Sales to be made as to acreage at the hazard of the purchaser. Sales to be made ~~or enough thereof to pay \$~~ and the costs of this suit and the commissions of sale, upon the following terms, to wit: Enough cash to pay cost and commission, and the remainder in two equal installments due in one and two years from the date of sale. The purchaser will be required to execute bonds bearing interest from the date of sale with good personal security.

*E. S. Huntington and J. C. Noel*

Special Commissioners

This 12th day of Dec., 1900, 1899

The bond required by the court of said commissioners has been given before me. This the 12th day of Dec., 1900.

----- Clerk.



John Z. and Mary P. Ely Plffs

vs.

J. M. Smyth et al Defts

In Chancery

To the Hon H. A. H. Skene, Judge of  
the Circuit Court for Lin County:

Your undersigned, who was  
on the 17<sup>th</sup> day of Nov., 1900, appointed  
in the above styled cause Special  
Commissioners to sell the lands of  
the late Joseph M. Ely and Sarah  
S. Ely dec'd., and described in the  
files of the papers of said cause, beg  
leave to report that after advertis-  
ing the time, terms and place of  
sale of said land in the South-  
West Virginian, a news paper  
published at Janeville, in Lin  
County & Va., for four successive  
weeks, and by posting written notices  
thereof at the front door of the  
Court-house of Lin County, at the  
Post-office in Princeton Gap,  
and Dryden and also at Olney  
Station Va., for 30 days, and after  
giving the bond required by said  
decree in the penalty of \$10000  
on Tuesday, January, 21<sup>st</sup> 1901,  
that being a Court day, at the  
front door of the Court-house of  
Lin County between 11 am. and 2 P.M.  
of that day in the presence of  
a large crowd of people, did



offer the land in said <sup>and</sup> mentioned  
for sale, on the terms provided  
in said decree, at public outcry  
and to the highest and best bidder,  
and after trying said sale for  
a good while, the following  
was knocked down to J. M.  
Parsons who was the highest  
and best bidder, the tract  
commonly called the "Hirani"  
bottom, and being the land  
which was conveyed by deed  
bearing date on the 15<sup>th</sup> day  
of December, 1891 by John S.  
and Amanda J. Hughes to said  
Sarah S. Ely and recorded in  
D.B. 28 p. 574, and also the  
tract of land owned by said  
Joseph M. Ely in his lifetime,  
and being the same land de-  
vised to him by his father and  
shown and set out in a plat  
of partition between himself  
and his brothers and shown  
on said plat as lot No. 3, and  
which is recorded in D.B. No.  
10 page ; said Hirani bottom  
was knocked down to said J. M.  
Parsons at the price of \$25.24  
and the other for \$2444.76, both  
of which ~~was~~ seems said Parsons  
paid down to said commissioners.



Next your commissioners at the same time & place offered in the same way the tract of land which by deed dated Oct. 19<sup>th</sup> 1868, was by G. M. Hughes wife conveyed to said Joseph M. and Sarah S. Ely jointly, and the same was knocked down to Amanda J. Hughes who was the highest and best bidder, for the sum of \$210<sup>00</sup> which sum said Amanda J. paid down to your commissioners.

Next your commissioners at the same time and place, offered in the same way and on the same terms the residue of said Joseph M. Ely's land commonly called his home place and after considerable and spirited bidding the same exclusive of the R. R. right of way was knocked down to A. Johnson who was the best and highest bidder at the price of \$3675<sup>00</sup>. Said Johnson has paid down to your commissioners \$147<sup>00</sup>, and executed his ~~two~~ two notes, for \$1764<sup>00</sup> each bearing interest from date of sale and payable in one and two years time respectively & with H. L. Johnson



1 as his surety.

2 We beg to say that all this  
3 land has sold higher than the  
4 expectations of the most sanguine,  
5 and we think and  
6 advise a confirmation of  
7 each of said sales to said parties,  
8 and we respectfully ask your  
9 honor to direct us to properly  
10 pay out this fund now in our  
11 hands which amount to \$3627<sup>00</sup>.

12 Your Commissioners will further  
13 show unto your honor that they  
14 believe they can sell and as-  
15 sign said two notes of said  
16 Johnson's for par or at least  
17 at not more than 2% dis-  
18 count. On account of the num-  
19 ber of persons interested in this  
20 fund and the account of taxes  
21 that will have to be paid on  
22 the same if they are held until  
23 maturity, your comrs. recommend  
24 that by a proper order they be  
25 allowed to negotiate said notes  
26 at not more than 2% discount,  
27 and thus be able to disburse  
28 the entire funds at once of  
29 the sales of said lands.

30 Each of said sales to said par-  
31 ties were made by the boundary  
32 and at the risk of the purchasers



as to the acreage of each tract  
and sale. It is also sold subject  
to the rights of the L. & N. R. R.  
Co. in said lands.

If the sales to said F. M. Parsons  
and Amanda J. Hughes be confirmed  
by your honor, and as before  
stated they paid down, they are  
entitled to a deed conveying their  
title thereto, and as there are so  
many persons interested, a deed  
for such persons to personally  
convey would be impracticable, and so  
they recommended that a Court be  
duly appointed for that purpose.

Statement of Receipts to date

(1)	From F. M. Parsons	\$3270 <sup>00</sup>
(2)	" Amanda J. Hughes	210.00
(3)	" A. Johnson	147.00

Total which we have on hand \$3627.00  
and which we have deposited in  
the Farmington Gap Bank to our  
credit as Court, in this cause.

All which we respectfully  
submit this the 1st day of Feb. 1901

W. H. Farmington } Special  
J. C. Noel } Court.



J. J. & Mary P. Ely

Report of  
Sales

J. M. Smyth Ad

Filed Feb'y the 4<sup>th</sup> 1901

A. B. Munsey Clerk



John Z. & Mary P. Ely

vs.

J. M. Smyth et al

In Chancery

~~The~~ To the Hon. Wm. H. Sherman Judge  
of the Circuit Court for the Co.

Your undersigned Counsel, beg  
leave to report that on March  
5<sup>th</sup> 1901 in said cause they  
were appointed special Commrs. to  
make Amanda J. Hughes and  
J. M. Parsons deeds to the  
lands which each severally  
brought in the above styled  
cause, that they have made  
each of said parties a deed to  
their respective purchases as  
shown in our report of sales  
filed in this cause on the  
4<sup>th</sup> day of Feb. 1901.

All which is respectfully  
submitted. This March 1<sup>st</sup> 1901

E. H. Huntington and  
John Noel



John Z. Murray & Co

Report of  
the  
Hughey & Barrow

J. M. Smyth & Co

Filed March 21, 1901

A. B. Murray & Co



Smyth & Ely adms.

vs.

E. J. Tunington et al

and

John Z. & Mary P. Ely

vs.

J. M. Smyth et al

In Chancery.

To the Hon. St. A. H. Sherridge of  
the Circuit Court for Lincoln County.

Pursuant to the decrees  
rendered in these causes at the  
Nov. term 1900, March and June  
terms 1901 of your Honor's Court,  
we the undersigned special  
commissioners have sold the  
lands of the late Joseph N. and  
Sarah S. Ely, and derived  
from such sales in cash after  
deducting 3% discount on the  
A. Johnson notes the gross  
sum of \$7049.16. After paying  
the costs in the last styled cause,  
commissioners of sale and retained  
out of the same \$72.00 with which  
to pay the taxes on the funds in  
our hands for this year, we  
have paid out the residue (and  
95¢ over) to those entitled to the



same, as directed under the former orders entered in these causes. The manner and amounts of our distribution of said sum of \$7049.16, and the persons to whom we have paid the same will be seen from a complete statement of our receipts and disbursements, which we herewith file as a part of this report, and numbered from One to ~~four~~ <sup>four</sup> inclusive. Statement No. five shows that there is yet in our hands the sum of \$87.12, which should be paid out to the persons named in this statement and in proportion of the amounts set after each one's name. We would have had this sum paid out to the persons named in Statement No. five, but all, except one, according to our information are infants without guardians in this State, and this being the case we could not lawfully pay the same out. We desire to get



exonerated wholly on our bond  
as commissioners, so we ask  
your honor to appoint some  
suitable person <sup>receiver</sup> ~~guardian~~ for  
the said fund in our hands,  
and allow us to pay the same  
over to such <sup>receiver</sup> ~~guardian~~.

We take occasion to con-  
gratulate ourselves upon the  
fortunate luck we have had in  
getting this money disbursed.  
We worked in conjunction with  
the administrators of this estate,  
and after a deal of correspond-  
ing, we found all the persons  
interested. To share in this es-  
tate there were 249 persons,  
and all have been paid their  
due share, except 27, whose  
names are shown in Statement  
five, and to whom is going \$87.13

Pursuant to the decree of your  
honor entered at the June term  
1901, we paid to J. P. Ely out  
of the share of Jackson Ely's  
heir part the sum of \$30<sup>00</sup>, it  
taking that sum to pay off J. P.  
Ely's pecuniary after the said



administrators had paid what was in their hands going to the heirs of Jackson Ely dec'd.

If your honor will appoint a receiver to receive the funds in your commission's hands, there is no need of retaining these causes longer on the docket, except for the purpose of having Mr. R. Johnson a deed made to the land which he purchased, where he has paid for the same. Your commission will suggest that a deed be made to him reserving a vendor's lien thereby in favor of the Powell Valley Bank and thereby get these causes off the docket.

All which they respectfully submit. This Oct 6<sup>th</sup> / 1901.

E. W. Freemington }  
J. C. Noel } *Clerks*



John & Mary P. Ely, Pliffs

vs.

J. M. Smyth et als

in Chancery.

Land Sales of J. N. Ely

In asy with

E. W. Huntington and J. L. Noel Comrs.

Statement No. One.

Showing gross amount to which said Comrs. should be charged, on account of sales of lands and discommit thereon as per decree of March, 1901

1901	Jan	30	By amt. from F. M. Parsons	3270	00
	"	30	" " " A. Johnson	147	00
	"	30	" " " Amanda Hughes	210	00
	Mar	28	" " " net proceeds of A. Johnson's notes of \$3528 at 5% discount	3422	16
			Total Receipts	\$7049	16

Mar	14	By Commissions retained	152	10
"	12	" Costs pd. A. B. Murray clerk	31	95
	12	" " " A. W. Givins, Order Pub.	24	30
	12	" " " H. J. Melham Sheriff	2	00
	12	" " " J. P. Ely Deputy "	44	00
	12	" amt. retained & pd. for taxes for 1901	72	00
	12	" " Need. for William Bottom & Staghut	930	24
		Amts. over	\$12563	47
			\$7049	16



Amts. brot. over	1256 59	7049 16
By $\frac{2}{3}$ of \$5777.67	3857 78	
" $\frac{1}{3}$ of \$5777.67	1918 89	
" Amt. P. Pennington Bros.	15 00	
	<u>\$7049 26</u>	<u>7049 16</u>

### Statement No. Two.

Showing the disbursement of \$930.24, the gross amount received for the <sup>one-half of the</sup> Hughes tract and the Stram Bottoms, among the heirs of Sarah S. Ely died. as per decree of Nov. 17th 1900.

		Decree paid for Stram Bottom & $\frac{1}{2}$ Hughes	930 24
		To share of costs, &c	35 00
		" " of heirs for 1901	10 00
Mar	14	" Amt. pd. C. A. Hancock, Per decree of	39 50
	14	" " " J. C. Ross March 1901	39 50
April	1	" " " America Graham $\frac{2}{7}$	230 35
"	1	" " " Thomas P. Garrison $\frac{1}{7}$	115 17
"	1	" " " Daniel G. Simpson	115 17
"	1	" " " Cynthia Myers $\frac{1}{4}$ of $\frac{2}{7}$	57 58
"	1	" " " Sarah E. Myers $\frac{1}{4}$ of $\frac{2}{7}$	57 58
"	1	" " " John H. Pennington $\frac{1}{4}$ of $\frac{2}{7}$	57 58
"	1	" " " Mary P. Ely $\frac{1}{4}$ of $\frac{2}{7}$	57 58
Mar. 30		" " " Peter Reason $\frac{1}{7}$ of $\frac{1}{7}$	16 45
Mar. 30		" " " Belle Reason $\frac{1}{7}$ of $\frac{1}{7}$	16 45
		Am'ts carried over	849 91 930 24



		Amts. brot. over	847	91	930	24
Mar. 30	To	amt. P. L. Fannie Pease $\frac{1}{7}$ of $\frac{1}{7}$	16	45		
" 30	"	" " John Pease $\frac{1}{7}$ of $\frac{1}{7}$	16	45		
" 30	"	" " Leas Pease $\frac{1}{7}$ of $\frac{1}{7}$	16	45		
April	"	" " Minerva S. United $\frac{1}{7}$ of $\frac{1}{7}$	16	45		
"	"	" " Rebecca Pease $\frac{1}{7}$ of $\frac{1}{7}$	16	45		
		Totals.	\$930	16	\$930	24

### Statement No Three

Showing the distribution of  
~~\$1925.89~~ among the sisters and  
brother of Sarah S. Ely, and their  
descendants, under the will of  
Joseph N. Ely and the decree of  
Nov. 17<sup>th</sup> 1900.

1901	By	$\frac{1}{3}$ net as per Stat. No. One				1925.89
April 1	To	amt. P. L. America Graham $\frac{1}{3}$	641	96		
" 1	"	" " " Daniel G. Simpson $\frac{1}{2}$ of $\frac{1}{3}$	320	98		
1	"	" " " Thomas P. Garrison $\frac{1}{2}$ of $\frac{1}{3}$	320	98		
1	"	" " " Cynthia Myers $\frac{1}{4}$ of $\frac{1}{3}$	160	49		
1	"	" " " Mary P. Ely $\frac{1}{4}$ of $\frac{1}{3}$	160	49		
1	"	" " " Sarah E. Myers $\frac{1}{4}$ of $\frac{1}{3}$	160	49		
1	"	" " " John H. Pennington $\frac{1}{4}$ of $\frac{1}{3}$	160	49		
		Totals	\$1925.88		\$1925.89	



# Statement No. Four.

Showing the distribution of  
 \$3857. 78 among the descendants  
 of the ten brothers and sisters  
 of Joseph N. Ely, as directed  
 by the decree of the Court on  
 Nov. 17<sup>th</sup> 1900, and his will;  
 also name of each descendant,  
 amount due each, date and a.  
 amount paid each, and amount  
 remaining unpaid, and to whom  
 on the day of October, 1901

Date of  
 Payments  
 1901

Names of Descendants      Share  
 of      Paid      unpaid  
 each      to      to  
                  each      each

		1	Jane Smyth sister, dead leaving Eight Children, to-wit:						
4	1	1	J. Morison Smyth	48	14	48	15		
		2	Sarah Trent	48	14	48	15		
		3	Elizabeth J. Pennington dead leaving three children						
4	8	1	Alpha B. Myers	16	05	16	05		
4	8	2	Florence P. Hawkins	16	05	16	05		
4	8	3	C. P. Pennington	16	04	16	05		
		4	Wm. Smyth dead leaving Eleven Children, to-wit:						
4	8	1	John M. Smyth	4	37	4	37		
			Carried over	\$148	79	148	82		



		Amts. brot. over	148 79	148 82	
4	8	2 Alexander Smyth	4 37	4 37	
4	8	3 Tennessee Smyth	4 37	4 37	
4	8	4 Savina J. Curry	4 37	4 37	
4	8	6 America Combs	4 37	4 37	
4	8	7 George B. Smyth	4 37	4 37	
4	8	8 James M. Smyth	4 37	4 37	
4	8	9 Jesse M. Smyth	4 37	4 37	
4	8	10 Amanda J. Shackelford	4 37	4 37	
		11 Nehna Lane, dead leaving four children, to-wit			
4	8	1 Alice May Lane	1 09	1 09	
		2 Henderson Lane	1 09		1 09
		3 Belle Lane	1 09		1 09
		4 Cora Lane	1 09		1 09
		5 Edward Smyth dead leaving Eight children, to-wit:			
4	15	1 Rebecca J. Travis	6 01	6 01	
3	30	2 Jas. T. Smyth	6 01	6 01	
4	1	3 Herwin O. Bartlett	6 01	6 01	
4	15	4 Wm A. Smyth	6 01	6 01	
4	6	5 Martha Gillen	6 01	6 01	
4	6	6 Emily Lucas	6 01	6 01	
4	1	7 Mary F. Parsons	6 01	6 01	
4	15	8 Sarah Sharp	6 01	6 01	
		Amts. Carried over	24 95 6	237 32	3 27



Ants. brot. over

24856 23732 327

6 David Smyth dead leav-  
ing 11 Children, to-wit

3 20

1 John M. Smyth Jr.

4 37 4 37

4 1

2 Jas. L. Smyth

4 37 4 37

4 2

3 Mary J. Parsons

4 37 4 37

4 2

4 David W. Smyth

4 37 4 37

4 8

5 Albert M. Smyth

4 37 4 37

5 30

6 Sarah M. Greenwood

4 37 4 37

4 13

7 Mauda P. Barry

4 37 4 37

4 23

8 Louie E. Olinger

4 37 4 37

3 30

9 Charles C. Smyth

4 37 4 37

4 13

10 Laura R. Parsons

4 37 4 37

11 Alice Turner dead leav-  
ing two children, to-wit

1 Luther Turner

2 18

2 18

2 Wm. E. Turner

2 18

2 18

7 James Smyth dead leaving  
Four children, to-wit:

4 8

1 Wm. Smyth

12 04 12 04

4 8

2 Joseph L. Smyth

12 04 12 04

4 8

3 Sarah Cole

12 04 12 04

4 Amanda Howard, dead, leav-  
ing 2 children, to-wit:

1 Howard

6 02

6 02

2 Howard

6 02

6 02

Carried over

33679 31714 1967



		Mut's brot. over	35679	317	14	19	67
		8 Rebecca Orr dead leaving Six children, to wit:					
5	20	1 Sarah J. Parsons	8	01	8	02	
4	2	2 John A. Orr	8	01	8	02	
4	15	3 Emily Newmann	8	01	8	02	
3	30	4 Mrs. J. Orr	8	01	8	02	
4	8	5 Peter H. Orr	8	01	8	02	
4	1	6 Mary B. Pugh (Dallie)	8	01	8	02	
		2 Elizabeth Branson, sister, dead leaving nine children, to wit:					
5	18	1 Joseph E. Branson	42	79	42	79	
5	18	2 Richard N. Branson	42	79	42	79	
5	18	3 S. S. Branson	42	79	42	79	
4	1	4 Sallie Parsons	42	79	42	79	
5		5 Lurisa Raleigh	42	79	42	79	
		6 Henry C. Branson	42	79	42	79	
		7 Nimrod Branson dead leaving six children, to wit:					
4	15	1 Roland Branson, } Paid	7	12	7	12	
4	15	2 George Branson } to	7	12	7	12	
4	15	3 Josephus Branson } M. G.	7	12	7	12	
4	15	4 Bettie Buck } Ely	7	12	7	12	
4	15	5 Lydia Goodson } their	7	12	7	12	
4	15	6 Rachel Townley } Attorney	7	12	7	12	
		Carried over	684	31	664	72	19 67



		Amts brot. over	684	31	66	72	19	67
	8	Chandler Branson dead						
		leaving nine children, to-wit:						
5	20	1 Sarah Clark	4	75	5	53		
5	20	2 Eli. Holcomb	4	75	5	53		
5	20	3 Bettie Estep	4	75	5	53		
6	17	4 Nancy Nolan	4	75	4	75		
		5 Emma Branson	4	75			4	75
		6 Mabel Branson	4	75			4	75
6	22	7 Hezekiah B. Branson	4	75	4	75		
7	5	8 John N. Branson	4	75	4	75		
6	22	9 J. Lincoln Branson	4	75	4	75		
	9	Fannie Howard dead leav.						
		ing ten children, to-wit:						
6	1	1 Park B. Howard	4	27	4	27		
6	1	2 Geo. C. Howard	4	27	4	27		
6	1	3 Sudia Blanton	4	27	4	27		
6	1	4 Louisa Saylor	4	27	4	27		
6	1	5 Lucilla Simpson	4	27	4	27		
6	22	6 Minna Saylor	4	27	4	27		
6	28	7 Bettie Neely	4	27	4	27		
		8 H. B. Howard	4	27	4	27		
5	20	9 Joseph E. Howard	4	27	4	27		
	11	Sallie Coldiron, dead						
		Leaving 2 children, to-wit						
		1 Naisie Coldiron	2	13			2	13
		2 George Coldiron	2	13			2	13
		Carried over	769	75	738	74	33	43



		amts. Bro't over	769	75	738	74	33	43
		<sup>#385.12</sup>						
3		Hiram Ely, a brother, dead						
		leaving ten children, to-wit:						
4	1	1 Joseph Ely, (Porter)	38	57	38	57		
3	30	2 George W. Ely	38	57	38	57		
4	1	3 Rev. Hiram H. Ely	38	57	38	57		
8	19	4 John H. Ely	38	57	38	57		
		5 Rinda Smyth, dead leaving						
		three children to-wit-						
3	30	1 James Smyth	12	83	12	83		
		2 Sarah Stewart dead leaving						
		seven children, to-wit						
4	1	1 Floyd Stewart	1	83	1	83		
4	1	2 Jas. A. Stewart	1	83	1	83		
4	1	3 Simon Stewart	1	83	1	83		
4	1	4 Lily Stewart	1	83	1	83		
4	1	5 Emmet Stewart	1	83	1	83		
4	1	6 Ballard Stewart	1	83	1	83		
4	1	7 Laura Stewart	1	83	1	83		
		3 Emily Moore dead leaving						
		three children to-wit:						
4	1	1 Maynard Moore	4	27	4	27		
4	1	2 Truman Moore	4	27	4	27		
4	1	3 Ernest Moore	4	27	4	27		
		6 Nimrod H. Ely dead leaving						
		seven children, to-wit:						
4	1	1 J. P. Ely	5	50	5	50		
3	30	2 Chas H. Ely	5	50	5	50		
		carried over	973	24	942	23	33	43



		Amts. brot over	973	24	942	23	33	43
5	16	3 W. S. Ely	5	50	5	50		
5	16	4 Hiram Ely	5	50	5	50		
4	23	5 John B. Ely	5	50	5	50		
5	17	6 Amanda Ely	5	50	5	50		
		7 J. M. Ely dead leaving two children, to-wit:						
4	1	1 Leonard Ely	2	75	2	75		
4	6	2 Mary Ely, Sarah E. Parks, guardian	2	75	2	75		
		7 Mrs. H. Ely dead leaving six children, to-wit:						
4	1	1 Hiram Ely	6	41	6	41		
4	1	2 Sarah Ely } Martha J.	6	41	6	41		
4	1	3 Nora Ely } Ely their	6	41	6	41		
4	1	4 Crockett Ely } Guardian	6	41	6	41		
4	1	5 Anna Harbor dead leaving						
		6 two children to-wit						
4	1	1 Mrs Harbor } Martha J.	3	20	3	20		
4	1	2 Chas. Harbor } Ely their	3	20	3	20		
		6 Elkanah Ely dead leaving Two children, to-wit:						
4	1	1 Vernon Ely } Martha J.	3	20	3	20		
4	1	2 Nora Ely } Guardian	3	20	3	20		
		8 Jackson Ely dead leaving Six children, to-wit						
6	11	1 Sarah Smyth	6	41	6	40		
6	11	2 Minerva Bowen	6	41	6	40		
		Carried over	1051	97	1020	97	33	43



		Aunts brot. over		1051 97	1020 97	33	43
6	11	3	Syde Turner	6 41	6 40		
6	11	4	George A. E. Ely	6 41	6 40		
6	11	5	Hiram Ely	6 41	6 40		
6	11	6	Jackson Ely	6 41	5 00	1 40	
				6 41			
9 Milton H. Ely dead leaving Six children, to-wit:							
4	1	1	Emmett Ely	6 41	6 41		
4	6	2	H. R. Ely	6 41	6 41		
4	1	3	Rosa Robbins	6 41	6 41		
4	1	4	Oeta Smyth	6 41	6 41		
4	1	5	Marion Ely	6 41	6 41		
4	1	6	Palatine Ely	6 41	6 41		
10 Isaac Ely dead leaving Four children to-wit:							
7	18	1	Joseph M. Ely	9 62	9 62		
7	18	2	Hannie J. Green	9 62	9 62		
		3	Rosie Ely	9 62		9 62	
		4	Lorinda Evans dead leaving two children, to-wit:				
		1	W. C. Evans	4 81		4 81	
		2	Cornelia F. Evans	4 81		4 81	
Carried over				1154 55	1102 87	54	07



amts. brot. over

1154 55 1102 87 54 07

\$385.17

4 Rachel four dead leaving  
five children to wit:

4	27	1	Sallie Turner	77	03	77	03
5	29	2	Fannie Lewis	77	03	77	03
5	20	3	Sonamie Baywood	77	03	77	03

4 Emily Sergeant dead leaving  
7 children to wit:

4	8	1	Jane Farley	11	00	11	00
4	8	2	Louisa King	11	00	11	00
4	8	3	Rachel Lord	11	00	11	00
4	8	4	Emily Manspie	11	00	11	00
4	8	5	Bettie Criden	11	00	11	00
4	8	6	Frank Sergeant	11	00	11	00

7 Mary Chappell dead  
leaving 8 children to wit:

		1	Littie Chappell	1	37		1	37	
7	31	2	Rachel Chappell	1	37	1	37		
7	30	3	Bettie Chappell	1	37	1	37		
		4	John Chappell	1	37			1	37
		5	Elk Chappell	1	37			1	37
		6	Allen Chappell	1	37			1	37
		7	Geo. W. Chappell	1	37			1	37
		8	Sophia Chappell	1	37			1	37

5 Mary Howard dead  
leaving three children.

5	16	1	Adeline Howard	25	67	25	67
			Carried over	1488	31	1428	37

62 29



		Am't bro't over	1488 31	1428 37	62 29
5	16	2 Milton Howard	25 67	25 67	
		3 Emily Lewis dead leaving Two children to-wit:			
5	16	1 Milton Lewis	12 83	12 83	
5	29	2 Mary Howard	12 83	12 83	
5		<sup>\$385.17</sup> Francis Bailey dead leaving Eight children, to-wit:			
4	23	1 Lucinda Parsons	48 14	48 14	
4	23	2 Rebecca Malony	48 14	48 14	
4	6	3 Henry C. Bailey	48 14	48 14	
4	23	4 C. A. Bailey	48 14	48 14	
4	6	5 John M. Bailey	48 14	48 14	
4	6	6 Sallie Cecil	48 14	48 14	
4	6	7 Jane Barker	48 14	48 14	
		8 Louisa Flanary dead leaving three children.			
4	6	1 Francis Maxwell	16 05	16 05	
4	6	2 Lillie Shuffelbarger	16 05	16 05	
6		3 P. C. Flanary	16 05	16 05	
6		<sup>\$385.17</sup> Nimrod C. Ely, a brother, dead Leaving 5 children, to-wit:			
4	8	1 Rebecca Weston	77 03	77 03	
4	8	2 Emily Munsey	77 03	77 03	
4	8	3 Eviline J. Fletcher	77 03	77 03	
4	8	4 Susan Z. Young	77 03	77 03	
		5 Elizabeth Howard, dead Leaving four children, to-wit:			
		Carried over	2232 89	2172 95	62 29



		Aunts. brot over	\$2232 89	2172 95	62 29
4	8	1 Eva J. Skaggs	19 25	19 26	
4	1	2 Oeta E. Johnson	19 26	19 26	
4	8	3 J. M. Howard, J. R. G. Heath guards	19 26	19 26	
		4 Mary Gilly dead leaving six children to. wit:			
4	9	1 Emory Gilly	3 21	3 21	
4	1	2 Cornie E. Parks	3 21	3 21	
4	9	3 Erud B. Gilly	3 21	3 21	
4	23	4 Annis M. Sitten	3 21	3 21	
4	9	5 Tip Gilly } Wm. J. Gilly	3 21	3 21	
4	9	6 Gale Gilly } their Guardian	3 21	3 21	
		<del>\$385.17</del>			
		7 Rebecca Reason dead leaving Eight children, to. wit:			
4	24	1 W. S. Reason	48 14	48 15	
4	24	2 A. J. Reason	48 14	48 15	
4	24	3 P. C. Wallace Reason	48 14	48 15	
4	24	4 J. Green Reason	48 14	48 15	
4	8	5 Fannie E. Collier	48 14	48 15	
4	23	6 Amanda Olinger	48 14	48 15	
		7 John Reason dead leaving seven children to. wit:			
4	8	1 Minerva S. Musted	6 87	6 88	
4	8	2 Rebecca J. Barron	6 87	6 88	
3	30	3 Peter Reason } D. S. Reason Jr.	6 87	6 88	
3	30	6 John Reason } their	6 87	6 88	
3	30	4 Fannie Reason } their	6 87	6 88	
3	30	7 Cass Reason } guardian	6 87	6 88	
3	30	5 Belle Reason } guardian	6 87	6 88	
		Aunts carried over	2646 86	2587 05	62 29



		ants. boat race	2646 86	2587 05	62 29
		8 Ona Hobbs. boy dead leaving Eight children.			
4 26		1 A. F. Hobbs	6 01	6 01	
4 20		2 Peter R. Hobbs	6 01	6 01	
4 20		3 John B. Hobbs	6 01	6 01	
4 20		4 Rebecca Johnson	6 01	6 01	
4 20		5 Ambrose J. Cox	6 01	6 01	
4 20		6 Jasen Cox	6 01	6 01	
4 20		7 Joel S. Cox	6 01	6 01	
4 20		8 Lydia Lerow	6 01	6 01	
		8 Andrew J. Ely dead leaving Five children to wit			
4 3		1 Rebecca R. Cecil	77 03	77 03	
4 1		2 Amanda J. Hughes	77 03	77 03	
4 1		3 Sarah Myers	77 03	77 03	
4 1		4 John J. Ely	77 03	77 03	
4 1		5 Mary E. Cox	77 03	77 03	
		9 Polly Smyth dead leav- ing Eight children, to wit			
4 11		1 Tobias P. Smyth	48 14	48 15	
4 15		2 Sarah E. Leoney	48 14	48 15	
4 9		3 Mary Carter	48 14	48 15	
		4 Rebecca Johnson dead leaving 11 children to wit			
4 27		1 Joseph Johnson	4 37	4 37	
4 27		2 John W. Johnson	4 37	4 37	
6 24		3 A. J. Johnson	4 37	4 37	
		ants. dried over	3237 62	3177 84	62 29



		amtd brok. over	\$3	237	62	3177	84	62	29
5-16	4	Mary Robbins		4	37	4	37		
4-6	5	Sarah S. Collier		4	37	4	37		
4-27	8	Emily Turner		4	37	4	27		
4-27	8	Vesta Baathe		4	37	4	37		
	8	Golo Bailey		4	37			4	37
4-6	9	Eora Johnson		4	37			4	37
4-6	10	Nancy Stanley		4	37	4	37		
	11	James Johnson dead							
4-24		leaving four children, to wit							
	1	Mollie Hughes		1	09	1	09		
	2	Fannie Johnson		1	09			1	09
	3	Rebecca Johnson		1	09			1	09
	4	Rosa Johnson		1	09			1	09
	5	Joseph Smyth dead							
		leaving 8 children, to wit							
5-18	1	Sarah Mullins		6	01	6	01		
4-1	2	Tennessee Smyth		6	01	6	01		
4-23	3	Rebecca Olinger		6	01	6	01		
4-23	4	Emmit Smyth	Tennessee	6	01	6	01		
4-23	5	Fannie Smyth	Smyth	6	01	6	01		
4-23	6	Flora Smyth	their	6	01	6	01		
4-23	7	Joseph Smyth	Guard	6	01	6	01		
5-18	8	America Bailey		6	01	6	01		
	6	America Doss dead leaving							
		one child, to wit							
4-23	1	Mary Doss		48	14	48	15		
		Carried over	\$3	368	79	3297	01	74	30



Aunts. brok. over

f3368 79 3297 01 74 30

7 Wm. O. Smyth dead leaving  
Four children, to-wit:

5 20	1 Jas. M. Smyth	Elkmanah	12 03	12 04
5 20	2 Leon Hyman	Hyman	12 03	12 04
5 20	3 Jackson E. Smyth	their	12 03	12 04
5 20	4 David Smyth	Guard	12 03	12 04

8 Frances Parsons dead  
leaving three children, to-wit:

4 13	1 Emma Shork		16 05	16 05
4 16	2 Sherman Parsons	Jean	16 05	16 05
4 16	3 George Parsons	Parsons Guardian	16 05	16 05

10 Barbary Parsons dead leav-  
ing six children, to-wit:

7 10	1 Fannie E. Potts		64 19	64 19
7 17	2 Elizabeth J. Bell		64 19	64 19
7 13	3 Daniel H. Parsons		64 19	64 19
7 13	4 Cynthia R. Strode		64 19	64 19
	5 Emily H. Jones dead leaving one child, to-wit		64 19	64 19

7 20	1 Katie Bowers		64 19	64 19
------	----------------	--	-------	-------

6 Susan C. Harris-Perry, dead  
leaving 5 children to-wit:

7 12	1 John H. Harris		12 83	12 83
7 16	2 Maud Goodman		12 83	12 83
7 16	3 Buzzy J. Perry		12 83	12 83
7 16	4 Elsie Perry		12 83	12 83
	5 Frank Perry		12 83	12 83

Totals

f3 857 16 3765 59 87 12



# Statement no. Five

Showing the amount in said Pennington & Noels hands as court in said Cause, on the 4<sup>th</sup> day of October, 1901; and who is entitled to the same, the amount to which each person is entitled; and whether such person is a minor or adult, and residence where known

Name	Residence		Adult	Amount due Each
	Post Office	State	or Minor	
Anderson Sam		Ky	Minor	1 09
Belle Sam		"	"	1 09
Lora Sam		"	"	1 09
Suther Turner	Pen. Gap	Va	"	2 18
Wm E. Turner	do	"	"	2 18
Howard		Ky	"	6 02
Howard		"	"	6 02
Emma Branson	Crane Neck	"	"	4 75
Mabelle Branson	do	"	"	4 75
Naisie Coldiron		"	"	2 13
George Coldiron		"	"	2 13
Jackson Ely	Soldier	"	"	1 40
Rosie Ely		"	"	9 62
W. C. Evans		"	"	4 81
Conelia F. Evans		"	"	4 81
Lutitia Chappell		"	Adult	1 37
				55 44



*Amek Brath. over*

				55	44
John Chappell	Chappell	Hy	Min	1	37
Elk. Chappell	do	"	"	1	37
Allen Chappell	"	"	"	1	37
Geo. H. Chappell Jr	"	"	"	1	37
Sophia Chappell	"	"	"	1	37
Gola Bayley	Slump	7 <sup>4</sup> / <sub>7</sub>	"	4	37
Leon Johnson	do	"	"	4	37
Fannie Johnson	"	"	"	1	09
Rebecca Johnson	"	"	"	1	09
Rosa Johnson	"	"	"	1	09
Frank Perry			"	12	83
<i>Unpaid</i>				87	13



# Statement No. Six.

A Recapitulation of the  
entire account of said Pennington  
& Noel Courts, &c

Total amt. which went into said Courts  
hands as per Stat. No. One

\$7049 16

Disbursed as follows:

Costs. pd. Courts retained, & taxes  
retained per Stat. No. One

341 35

Paid out. per Stat. No. 2

930 16

Paid " per Stat. No. 3

1925 88

Paid out per Stat. No. 4

3765 59

Bal. in hands per Stat. No. 5

87 13

\$7050 11 7049 16

*Discrepancies*

95

By amt. pd. J. C. Noel receiver

87 13

1901

12-27



Smyth & Ely adms

<sup>vs</sup>  
E. J. Pennington Ad  
and

J. Z. & Mary P. Ely

<sup>vs</sup>  
J. M. Smyth et al

Report of Receipts &  
Disbursements by  
Noel & Pennington

Received from E. M.  
~~Pennington~~ and filed  
October 21st 1901

A. B. Munsey Clerk



Smyth & Ely adms. Compt.  
 vs.  
 E. J. Pennington et al Defts  
 and  
 John Z. Ely & wife Compt.  
 vs.  
 J. M. Smyth et al Defts.

These causes came  
 on again this day to be heard  
 upon the papers formerly  
 read therein and the reports and  
 statements filed therewith of Coun.  
 E. M. Pennington filed herein on  
 Oct. 21<sup>st</sup> 1901 of the account  
 of said Smyth & Ely as adms.  
 of Sarah S. Ely dec'd. and the  
 report & statements therewith of  
 the receipts and disbursements  
 of Couns. E. M. Pennington  
 and J. C. Noel filed herein  
 on Oct. 21<sup>st</sup> 1901, and was  
 argued by counsel.

On consideration of all  
 which, and said two reports  
 & statements being examined  
 to, it is adjudged ordered  
 & decreed that each of said  
 reports & statements be and are  
 hereby confirmed and approved



And it further appearing  
from said report and state-  
ments that there is yet re-  
disbursed in the hands of  
said Drumington & Keel the  
sum of \$87.13 and in the hands  
of said Snyth & Ely the sum  
of \$74.89, and which sums  
go to various persons in various  
amounts, and who are mostly  
infants without guardians,  
it is adjudged, ordered and  
decreed that John C. Keel  
be and is hereby appointed  
a receiver for said two funds  
and amounts; but before en-  
tering upon his duties as  
such receiver, said Keel  
will execute before the  
clerk of this court a bond  
in a penalty of \$300<sup>00</sup> Con-  
ditioned to properly account  
for all moneys that may  
come into his hands as  
such receiver and otherwise  
to faithfully discharge his  
duties as such receiver.

It is further adjudged



ordered and decreed that said  
Smyth & Ely as admors. of  
said Sarah S. Ely's estate, after  
said J. C. Noel shall have  
executed said bond, will pay  
said \$74.89 to said Noel taking  
his receipt for the same; and  
said Pennington & Noel Comrs. &c.,  
will likewise pay over to said  
J. C. Noel said \$87.13 taking  
his receipt for the same, which  
when done shall for ever dis-  
charge and release said Smyth  
& Ely as said administrators  
on their bond, and also shall  
for ever release and discharge  
said E. M. Pennington and  
J. C. Noel on their bond as  
Comrs. for the sale of the  
lands mentioned & sold in  
this cause.

It further appearing to the  
Court from a writing filed  
herein of the Lowell Valley  
Bank, which owns the Notes  
given by N. L. Johnson for  
the purchase price of the Home  
tract of land of the late Joseph  
N. & Sarah S. Ely; and that.



there is yet due on the said  
notes and purchase price of  
said land the sum of \$1764<sup>00</sup>  
with interest from January 21<sup>st</sup>  
~~1891~~ 1901, and due January 21<sup>st</sup> 1903

and that said Bank is willing  
that a deed be now made to  
said Johnson for her purchase  
retaining therein a lien for the  
~~unpaid~~ unpaid money: It is  
therefore adjudged, ordered  
and decreed that E. H. Pennington  
herby

appointed a special commis-  
sioner for the purpose will  
make to said N. L. Johnson  
a deed to the land purchased  
in these causes by her with  
covenants of Special warranty  
retaining therein a lien upon  
said land for said sum of  
\$1764<sup>00</sup> with interest thereon from  
Jan. 21<sup>st</sup> 1901

in favor of the said Powell  
Valley Bank, which when paid  
said Bank will release.

And said E. H. Pennington  
will report



action to correct when said deed  
is made; and until said  
deed is made this cause is  
passed.

It is further ordered that  
the report & statements there-  
with of E. H. Punnington Comr,  
settling the administration  
account of said Surrogate  
Ely be transmitted by the  
clerk of this court to the  
clerk of the County Court who  
will record the same in  
the book kept by him for  
the recordation of the settle-  
ment of fiduciaries.



Ely & Lucy Th

us } I am

E. J. Pennington & Co

Entered on City O.B.

No 7 Page 9 & 10

Enter This

Nov. 7 1901

HAW SHAM



1

John J. Ely and J. Morrison Smyth Admors. &c  
In as/ with  
The Estates of Sarah D. & Joseph N. Ely

---

Statement No. One

Showing from whom recd., the  
amount thereof and date

1900

4	23	Cash gotten at Sarah D. Ely's house	90	48
4	25	John A. G. Hyatt check	500	00
4	23	Cash in Farmington Safe Bank	46	43
11	27	Collected from John M. Smyth for	15	92
4	28	Cash Recd. on 1 <sup>st</sup> sale bill	130	56
4	28	" " " J. H. Farmington's sale note	3	06
7		Collected from James Barren	30	57
7	30	" " J. K. P. Kelly	100	00
8	3	" " M. V. Barker	41	00
8	13	" " Wm. Snavely	140	00
8	14	" " J. P. & G. I. Shelburne	45	00
8	17	" " John D. Russell	51	61
9	19	" " J. M. & G. I. Shelburne	7	25
9	22	" " Wm. Snavely	103	08
9	27	" " G. I. Shelburne	35	00
	27	" " W. F. Gilly	93	20
	29	" " G. H. Myers	77	08
10	6	" " J. K. P. Kelly	109	95
	6	" " J. B. Wolf	258	32
	13	" " J. K. P. Barren	411	22
		Carried over	2289	74



		Amt. brot over	2289	74
10	26	Collected from C. A. Orr	75	00
	27	" " L. C. & G. V. Shelburne	634	80
	29	" " A. J. & J. S. Cox	53	00
	30	" " F. P. Beaupardner	220	47
11	1	" " W. T. Gilly	200	00
	3	" " W. L. Jussee	116	61
	5	" " F. G. Gary	62	13
	13	" " G. S. Shelburne	17	57
	13	" " H. T. Gilly	44	53
	22	" " 3 <sup>rd</sup> Sales Cash	83	48
12	1	" " M. K. Graham	82	50
	1	" " J. J. C. Flannery & Bro	698	53
	1	" " R. L. Smeas et al	527	50
	8	" " John H. Pennington	273	06
	8	" " L. P. Ely	9	70
	8	" " Cred B. Gilly	24	20
	5	" " H. A. Orr	100	00
	6	" " Sam. Cecil	26	50
	10	" " Jas. H. Wilson	32	31
	11	" " Jas. H. Graham	57	84
8	25	" " 2 <sup>nd</sup> Sale Bee Cash	7	50
12	12	" " J. E. Graham	902	65
	12	" " A. J. Litten	98	89
	12	" " E. K. Pennington	186	00
	20	" " S. E. Shelburne	105	63
	22	" " D. L. & G. C. Jussee	306	25
	24	" " Charles Garrison	20	12
			73	56.48



		Am't bro't over	7356 48
12	29	Collected from S. H. Myers	62 65
	29	" " John B. Ely	25 00
	29	" " Rev. H. H. Ely	25 61
	29	" " James Parsons	18 24
	29	" " A. L. Felt	7 10
	29	" " W. F. Orr	6 68
1901	31	" " C. S. Orr	22 66
/	/	" " Jas. P. Ely	8 65
/	/	" " Joseph Ely (Porter)	30 62
/	/	" " do	10 00
/	/	" " F. P. Smyth	17 90
/	/	" " Tennessee Smyth	6 38
/	/	" " J. Z. Ely	44 55
/	/	" " H. Grant Ely	3 05
/	/	" " E. O. Johnson	7 05
/	/	" " G. H. Smith	10 00
/	/	" " C. B. Gilly	12 15
/	/	" " J. H. Johnson	4 00
/	/	" " J. M. Smyth	18 04
/	/	" " J. P. Hughes	36 37
/	/	" " Henry B. Graham	106 00
/	/	" " Fred Brooks	25 60
/	/	" " M. A. Litten	19 25
/	/	" " J. P. Kelly	18 75
/	/	" " R. F. Cahen	82 67
485	/	" " Cora E. Gish	194 57
5	/	" " A. M. Clinger	34 50
		Carried over	8114 46



		Auth. brok. over	8114	46
1	3	Collected from John G. Ely	104	56
	8	" " H. M. Stewart	23	16
	10	" " J. G. Reason	14	05
	10	" " Samuel Spill	106	00
	12	" " J. J. Carter	31	41
	12	" " Chas. Short	7	23
	12	" " Sarah & G. H. Myers	53	00
	15	" " St. P. Myers	4	74
	15	" " Geo. H. Zion	326	18
	19	" " V. R. Aichap	79	96
	19	" " J. Z. Ely	303	27
	19	" " J. H. & E. J. Skaggs	13	00
	21	" " R. H. Orr	80	00
	21	" " F. B. Jesse	5	90
	25	" " St. J. Russell est	63	12
	26	" " John P. Myers	454	16
	26	" " P. G. Johnson	8	14
	28	" " J. Z. Ely	97	36
	30	" " James Smyth	11	65
	5	" " Mary E. Leoy	5	50
	3	" " Jas. H. Graham	76	50
2	1	" " M. V. Barker	137	30
	4	" " America L. Graham	224	00
	8	" " E. B. Litten	20	00
	9	" " J. K. Parsons	106	00
	9	" " Elk. Garrison	16	74
		Auth. carried over	10487	39



		Amt. brok. over	10487	39
2	9	Collected from Bailie & Feltner	10	75
	27	" " H. J. Gilly	17	05
3	12	" " C. L. Hamblen	38	28
4	1	" " H. B. Cox et al	64	41
4	1	" " C. B. Gilly et al	4	65
4	1	" " G. H. Myers & wife	28	75
4	6	" " S. J. Colden	12	30
4	6	" " Robt. H. Orr	6	00
4	8	" " A. P. Ely et al	24	75
4	1	" " C. L. Hamblen	100	00
	8	" " J. H. & E. J. Skaggs	23	07
	24	" " W. C. Parsons	42	00
5	1	" " E. R. Garrison	14	48
5	1	" " E. B. Litten	6	60
5	1	" " Interest on Loans	28	25
		Total Amt. that went in Admrs hands	10909	21



# Statement No. Two

Showing debts of decedent,  
Sarah S. Ely, Expenses of ad-  
ministration, burials, and Costs  
deemed to be paid by adminis-  
trators in the Chancery Cause of  
Smyth & Ely admors &c vs. E. J. Pen-  
nington et al

1900

4	26	Pd. J. E. Hobbs, J. K. P. Kelly, H. P. M. Stewart & W. H. G. Burrow <sup>appraisers</sup>	7 00
	26	" J. R. Gibson & Sons burials	50
		" N. L. Johnson " Coffin &c	36 13
	27	" H. K. Hopkins for blank notes	1 00
	27	" John St. Kelly for feeding stock	7 00
5	9	" Dr. A. J. Stewart Dr. bill	18 50
	9	" Geo. F. Clark " "	6 00
	9	" R. W. Ely a/x	2 00
	9	" A. J. Ely Clerk at sale	2 00
	9	" F. B. Lion do	3 00
	9	" H. J. Orr J. P. for swearing apprs.	50
	9	" John P. Hughes Crying sale	4 00
6	14	" Enos Spurrer a/x	5 00
7	14	" C. B. Gilly for cutting oats	50
8	1	" Dr. H. G. Ely Dr. bill	3 00
9	13	" Costs In Re. Amelias vs. J. H. Pennington	13 50
11	26	" Sam. J. & John Ely, gathering Corn	10 12
	26	" Taxes for 1900	131 98
12	8	" L. P. Ely D. Sheriff Costs	44 00



		Amt. brok. down	286	73
12	8	Ph. Pennington Bros. see decr nos. 17/1900	115	00
8	31	" E.R. Garrison Witness Claim		50
9	1	" John St. Kelly do		50
9	1	" John Hughes hauling wheat		50
12	29	" St. St. Ely witness claim	1	00
	29	" H.K. Hopkins for printing bonds	4	50
	29	" A.B. Mumsey Clerk	25	00
	29	" B.M. Morgan "	23	35
	29	" A.M. Gaines Comr & Q. P.	74	80
	29	" H.J. Milhame Sheriff	2	00
1901	29	" J. B. Ely afx	1	00
1	1	" Mary P. Ely witness	1	00
1	12	" St. G. Ely's afx	3	00
	12	" E.F. Holdre afx		53
3	12	" H.A. Baker Justice	7	50
		" Other witness claims	4	50
		" Taxes for 1901	46	00
5	28	" Pennington Bros afx	65	00
		Retained to have recorded this settlement		10 00
		Retained for E. H. Pennington for making this settlement		41 00
		Total	1723	41



### Statement No. Three

Apportionment of Costs  
 &c., as per decree of Nov. 17<sup>th</sup> 1900.  
 the Ely heirs and devisees  
 paying .6534 % of the same and  
 the Huntington or Graham  
 heirs paying .3466 % of same.

Total Costs as per Statement No. Two	723	41
6534% for Ely Devisees	472	67
3466% for Graham " Heirs	250	74
	723	41
	723	41

### Statement No. Four

Showing apportionment of  
 the entire funds which went  
 into hands of said Adms. as  
 per decree of Nov. 17<sup>th</sup> 1900

Total amt. Recd. by adms per. No. 1	10909	21
Less interest accumulated on de- cuments relative to April 1 <sup>st</sup> 1900 & not counted in inventory of notes	452	00
To Be divided	10457	21
6534% for Ely devisees	6832	74
3466% " Sarah S. Ely's heirs	3624	47
	10457	21
	10457	21



### Statement No. Five

Showing the division of the Estate of Joseph H. Ely, after that of Sarah S. Ely's is eliminated from the whole, as per his will and the decree of the court of Nov. 17<sup>th</sup> 1900.

J. H. Ely's estate as per Stat. No. 4	6832	74	
Less Costs &c as per Stat. No. 3	472	67	
Net for Division	6360	07	
$\frac{2}{3}$ for his brothers & Sisters	4240	05	
$\frac{1}{3}$ " his wife Do	2120	02	
	6360	07	6360 07

### Statement No. Six

Showing what sum the Heirs of Sarah S. Ely will get Net.

Her <u>Heirs</u> Share per Stat. No. 4	3624	47	
" " " " " " 4	452	00	
" " " Total gross	4076	47	
Less Costs &c per Stat. No. 3	250	74	
" Fee for Noel & Duncan	300	00	
" 6% Com on \$3825.73	229	54	780 28
Net for Distribution			\$3296 19
America Graham $\frac{1}{7}$	94	1 27	
Thomas P. Garrison $\frac{1}{7}$	470	88	
Samuel G. Simpson $\frac{1}{7}$	470	88	
Carried over	1853	53	3296 19



Amts. brok. over	1883	53	3296	19
Mary P. Ely $\frac{1}{4}$ of $\frac{2}{7}$	235	44		
John H. Huntington $\frac{1}{4}$ of $\frac{2}{7}$	235	45		
Cynthia Myers $\frac{1}{4}$ of $\frac{2}{7}$	235	45		
Sarah Myers $\frac{1}{4}$ of $\frac{2}{7}$	235	44		
M. S. Unsted $\frac{1}{7}$ of $\frac{1}{7}$	67	26		
Rebecca Barron $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
John Reaser $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Peter Reaser $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Bill Reaser $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Fannie Reaser $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Coas Reaser $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
	3296	19	3296	19

### Statement No. Seven

Showing what the Sisters and brother of Sarah S. Ely, and their descendants will get under the will of Joseph N. Ely Nov. as per decree of Nov. 17<sup>th</sup> 1900.

Gross amt. per State No. 5.			2128	02
Less 6% com	127	20		
" 4% com on \$250.74	15	04	142	24
			1977	78
America Grakow $\frac{1}{3}$ of same	659	26		
Thomas P. Garrison $\frac{1}{2}$ of $\frac{1}{3}$	329	63		
Samuel G. Simpson $\frac{1}{2}$ of $\frac{1}{3}$	329	63		
	1318	52	1977	78



Amts. brot over	1318	52	1977	78
Mary P. Ely $\frac{1}{4}$ of $\frac{1}{3}$	164	82		
John St. Pennington $\frac{1}{4}$ of $\frac{1}{3}$	164	81		
Cynthia Myers $\frac{1}{4}$ of $\frac{1}{3}$	164	82		
Sarah Myers $\frac{1}{4}$ of $\frac{1}{3}$	164	81		
	1977	78	1977	78

### Statement No. Eight

Showing amt. due the Sisters and brothers of Sarah S. Ely and their descendants both as heirs of said Sarah S. Ely and as devisees of Joseph N. Ely, and date and amount of payments made by said Cynthia & Ely as admin. of the estate of said Sarah S. Ely

		Due America Graham per Stat. 6		941	77
1900		" do per Stat. No. 7		659	26
Dec 1901	12	Pd. Her	916	39	
Jan	5	" "	433	61	
April	1	" "	257	36	
		Overpaid Her			33
			1601	36	1601 36
		Due Thomas P. Garrison Stat. 6.		470	88
1901		" do per Stat. No. 7		329	63
June	26	" H. B. Graham his atty. in fact	675	00	
April	1	" do do	125	68	
			800	68	800 57



Amts. bch. over	1883	53	3296	19
Mary P. Ely $\frac{1}{4}$ of $\frac{2}{7}$	235	44		
John H. Funnington $\frac{1}{4}$ of $\frac{2}{7}$	235	45		
Cynthia Myers $\frac{1}{4}$ of $\frac{2}{7}$	235	45		
Sarah Myers $\frac{1}{4}$ of $\frac{2}{7}$	235	44		
M. S. Unsted $\frac{1}{7}$ of $\frac{1}{7}$	67	26		
Rebecca Barron $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
John Reason $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Peter Reason $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Bill Reason $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Fannie Reason $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
Coas Reason $\frac{1}{7}$ of $\frac{1}{7}$	67	27		
	3296	19	3296	19

### Statement No. Seven

Showing what the Sisters and brother of Sarah S. Ely, and their descendants will get under the will of Joseph N. Ely Nov. as per decree of Nov. 17<sup>th</sup> 1900.

Gross amt. per State No. 5.			2120	02
Less 6% com	127	20		
" 4% com on \$250.74	15	04	142	24
			1977	78
America Grubbs $\frac{1}{3}$ of same	659	26		
Thomas P. Garrison $\frac{1}{2}$ of $\frac{1}{3}$	329	63		
Samuel G. Simpson $\frac{1}{2}$ of $\frac{1}{3}$	329	63		
	1318	52	1977	78



	Due Cynthia Myers Stat-No. 6			235	44
1901	" " " " 7			164	82
Jan. 1	By amt. pd. her	330	00		
March, 30	" " " "	20	34		
	To amt. overpaid her				08
		400	34	400	34

	Minerva S. Amphlett, Stat-No. 6			67	26
1901	" " " " 16			6	00
Jan. 12	By amt. pd. her	55	00		
April 8	" " " "	18	28		
		73	28	73	26

	Rebecca J. Reason Stat-No. 6			67	26
1901	" " " " 16			6	00
Jan. 12	By amt. pd. her	55	00		
April 8	" " " "	18	28		
		73	28	73	26

	Due Peter Reason Stat. No. 6			67	26
1901	" " " " 16			6	00
March 30	By amt. pd. H.S. Reason guard.	73	28		
		73	28	73	26

	Due Fannie Reason, Stat. No. 6			67	26
	" " " " No. 16			6	00
1901	Mar. 30 By amt. pd. D.S. Reason, guard.	73	28		
		73	28	73	26



	Due Belle Reason Stat. No. 6		67	26
	" " " " " 16		6	00
1901	Mar. 30. By auct. pd. A.S. Reason guard	73	28	
		73	28	73 26
	Due John Reason Stat. No 6		67	26
	" " " " " 16		6	00
1901	March 30. By auct. pd. A.S. Reason guard	73	28	
		73	28	73 26
	Due Cass Reason Stat. No. 6		67	26
	" " " " " No. 16		6	00
1901	March, 30. By auct. pd. A.S. Reason, guard	73	28	
		73	28	73 26

### Statement No. 9.

Showing the net amount due the Brothers and Sisters <sup>and their descendants</sup> of Joseph N. Ely, under his will as construed by the Court. See decree of Nov. 17<sup>th</sup> 1900.

Gross auct. due them for Stat No. 5	4240	05
Deduct attys. fees pd Orr & Irwin	250	00
" " " " Huntington Bros	250	00
Carried over	500	00
	4240	05



Amts brok. over		500	00	4240	05
Deduct 8% Com. on \$4240.05		339	20		
" 8% " " \$472.67 Stat. 5		37	81	877	01
Net for Distribution as follows				\$3363	04
1	Jane Smyth's Heirs	✓	336	30	
2	Elizabeth Brauns's	"	✓	336	30
3	Hiram Ely's	"	✓	336	30
4	Rachael Jones	"	✓	336	30
5	Frances Bailey's	"	✓	336	30
6	Nimrod C. Ely's	"	✓	336	30
7	Rebecca Reason's	"	✓	336	30
8	Andrew J. Ely's	"	✓	336	30
9	Polly Smyth's	"	✓	336	30
10	Barbary Parsons	"		336	30
			3363	30	3363 04

### Statement No. 2.

Showing the descendants of  
Jane Smyth, the amount  
each will get, and date of  
payment. She died leaving  
Eight Children.

Amts not  
paid.

Name of Descendant	Amts due Each	Amts. pd. Each	Date of Payment
J. Morrison Smyth	42 02	42 04	4-1 1901
Sallie Trent	42 03	42 04	12-29 1900
			4-8 1901



# Statement No. Ten.

Showing the distribution of \$336.30, the share of Jane Smyth, a sister of Joseph H. Ely; among her descendants; she being dead leaving Eight Children; the amt. due each, date of payment, and amount unpaid and to whom;

Date of payments 1901			Names of Jane Smyth's Descendants	Share and Amt. Due Each	Amt. Paid Each	Unpaid
1	1					
4	1	1	J. Morrison Smyth	42 03	42 04	
1900						
1 1/2	2 9	2	Sallie Trent	42 03	42 02	
		3	Elizabeth J. Pennington, dead leaving 3 Children, to-wit:			
1901						
4	6		(1) Alpha B. Myers	14 01	14 01	
			(2) Florence P. Hawkins	14 01	14 01	
4	6		(3) B. P. Pennington	14 01	14 02	
		4	Wm. Smyth dead leaving Eleven Children, to-wit:			
4	8		(1) John M. Smyth	3 82	3 82	
			(2) Alexander Smyth	3 82	3 82	
4	8		(3) Tennessee Smyth	3 82	3 82	
			(4) Lavinia J. Curry	3 82	3 82	
4	8		(5) America Leouts	3 82	3 82	
			(7) George B. Smyth	3 82	3 82	
4	8					
			Amts. Carried over	152 84	152 86	



1901

		amts. brok. over	152 84	152 86	
4	8	(8) James M. Smyth	3 82	3 82	
4	8	(9) Jesse M. Smyth	3 82	3 82	
4	8	(10) Amanda J. Shackelford	3 82	3 82	
		(11) Helena Lane, dead leaving four children, to-wit:			
4	8	(1) Alice May Lane	95	95	
		(2) Henderson Lane	95		95
		(3) Belle Lane	95		95
		(4) Cora Lane	95		95
5		Edward Smyth dead leav- ing 8 children, to-wit			
3	4	1 Rebecca J. Travis	5 25	5 25	
4	15	2 Jas. T. Smyth	5 25	5 25	
1	5	3 Nerville O. Bartlett	5 25	5 25	
3	20	4 Mrs. A. Smyth	5 25	5 25	
4	1	5 Martha Guillen	5 25	5 25	
3	4	6 Emily Lucas	5 25	5 25	
4	15	7 Mary F. Parsons	5 25	5 25	
1	9	8 Sarah Sharp	5 25	5 25	
4	6	6 David Smyth, died leaving 11 children to-wit			
4	6	1 John M. Smyth Jr	3 82	3 82	
4	1	2 James S. Smyth	3 82	3 82	
4	2	3 Mary f. Parsons	3 82	3 82	
1	10	4 David H. Smyth	3 82	3 82	
4	2	5 Elbert M. Smyth	3 82	3 82	
1900		6 Sarah Greenwood	3 82	3 82	
12	29	amts. Carried over	233.02	230 19	28 5
1901	8				
5	30				



5  
 1 10  
 19 4 2.3  
 12 29  
 190 20  
 3  
 4 13

amts. brot. over

233 02 230 19 2 85

7 Manda K. Cary

3 82 3 82

8 Bonie E. Olinger

3 82 3 82

9 Charles C. Sneyth

3 82 3 82

10 Laura R. Parsons

3 82 3 82

11 Alice Turner dead

leaving 2 Children, to wit:

1 Luther Turner

1 91

1 91

2 Mrs. E. Turner

1 91

1 91

7 James Sneyth dead leaving  
 4 Children, to wit.

1 Mrs. Sneyth

10 57

10 57

2 Joseph L. Sneyth

10 57

10 57

3 Sarah Cole

10 57

10 57

4 Amanda Howard dead  
 leaving Children to wit:

1 Howard

5 25

5 25

2 Howard

5 25

5 25

8 Rebecca Orr dead leaving  
 Six Children to wit:

1 Sarah J. Parsons

7 00

7 00

2 John A. Orr

7 00

7 00

3 Emily Newman

7 00

7 00

4 Mrs. J. Orr

7 00

7 00

5 Peter H. Orr

7 00

7 00

6 Nellie Pugh

7 00

7 00

Totals

336 15 319 00 17 17

5 20  
 4 2  
 4 15  
 1 2 29  
 3 30  
 1 15  
 4 8  
 1 5  
 4 1



Statement No. Twelve.

Showing the distribution of \$336.30, the share of Hiram Ely, a brother and devisee of Joseph N. Ely, among his descendants, he being dead, leaving ten children; the amount due each, date of payments; and the amount if any remaining unpaid and to whom on

Dates of Payments 1901		No	Names of Descendants of said Hiram Ely	Share of Each	1901. Paid to Each	Unpaid to Each
12	29	1	Joseph (Porter) Ely	33 63	33 63	
4	1					
12	29	2	George H. Ely	33 63	33 63	
3	30					
4	1	3	Hiram H. Ely	33 63	33 63	
8	19					
4	1	4	John H. Ely	33 63	33 63	
		5	Rinda Smyth dead leaving three children, to wit:			
1	30					
3	30	1	James Smyth	11 20	11 20	
		2	Sarah Stewart dead leaving 7 children to wit			
4	1	1	Floyd Stewart	1 60	1 60	
4	1	2	Jas. A. Stewart	1 60	1 60	
4	1	3	Simon Stewart	1 60	1 60	
4	1	4	Fily Stewart	1 60	1 60	
4	1	5	Emmitt Stewart	1 60	1 60	
4	1	6	Ballard Stewart	1 60	1 60	
4	1	7	Laura Stewart	1 60	1 60	
			carried over			
				\$156 92	\$156 92	

Mrs. M. Stewart Guardian



ants brot over

156 92 156 92

3 Emily Moore dead leaving  
3 Children, to wit

~~4 1~~

4 1

1 Maynard Moore } Tennessee

3 75 3 75

4 1

2 Truman Moore } Smyth this

3 75 3 75

4 1

3 Ernest Moore } Guardian

3 75 3 75

Nimrod H. Ely dead leaving

6 7 Children, to wit:

4 1

1 J. P. Ely

4 80 4 80

3 30

2 Chas. H. Ely

4 80 4 80

5 16

3 H. S. Ely

4 80 4 80

4 23

4 John B. Ely

4 80 4 80

5 17

5 Hiram Ely

4 80 4 80

5 17

6 Amanda Ely

4 80 4 80

7 J. M. Ely dead leaving  
two Children to wit

4 1

1 Edward Ely

2 40 2 40

4 6

2 Maud Ely, Sarah E. Parks guard.

2 40 2 40

7 Mrs. H. Ely dead leaving six  
Children to wit

4 1

1 Sarah Ely } Martha J. Ely

5 60 5 60

4 1

2 Nora Ely } their

5 60 5 60

4 1

3 Crockett Ely } Guardians

5 60 5 60

4 1

4 Hiram Ely

5 60 5 60

5 Laura Harbor dead leaving  
two Children to wit:

4 1

1 Mrs Harbor } Martha J. Ely

2 80 2 80

4 1

2 Charles Harbor } Guardians

2 80 2 80



		Amts. brot. over	229 71	229 71	
		6 Elkanah Ely dead leaving two Children to wit:			
4	1	1 Vernon Ely	Martha J. Ely Guardian	2 80	2 80
4	1	2 Lora Ely		2 80	2 80
		8 Jackson Ely dead leaving Six Children to wit:			
6	11	1 Sarah Smyth	Paid to J. A. Ely. the decess of Clerk, dated June 3/1901	5 60	5 60
6	11	2 Minerva Brown		5 60	5 60
6	11	3 Lyde Turner		5 60	5 60
6	11	4 George Ann Ely		5 60	5 60
6	11	5 Hiram Ely		5 60	5 60
6	11	6 Jackson Ely		5 60	5 60
		9 Milton St. Ely dead leaving Six Children to wit:			
1	5	1 Emmet Ely		5 60	5 60
4	6	2 D. R. Ely		5 60	5 60
4	1	3 Rosa Robbins		5 60	5 60
4	1	4 Oeta Smyth		5 60	5 60
4	1	5 Marion Ely	H. M. Stewart their guardian	5 60	5 60
4	1	6 Palestine Ely		5 60	5 60
		10 Isaac Ely dead leaving Four Children to wit:			
7	18	1 Joseph M. Ely		8 40	8 40
7	18	2 Nannie Green		8 40	8 40
		3 Rosie Ely		8 40	8 40
		4 Lavinia Evans dead leaving two Children			
		Carried over	327 71	319 31	8 40



Amts brot over		327	71	319	31	8	40
1	W. C. Evans	4	20			4	20
2	Cornelia F. Evans	4	20			4	20
Totals		336	11	319	31	16	80

### Statement No Thirteen

Showing the distribution of \$336.80 the share of Rachel Jones, a sister and devisee of Joseph N. Ely, among her descendants; she being dead, but leaving five children; the amount due to each, when paid; and the amount, if any remaining unpaid on the

1901.

date of pay- ment		No	Names of Descendants of said Rachel Jones	Share to Each	Paid to Each	unpaid to Each
mo.	day					
4	27	1	Sallie Turner	67 26	67 26	
5	29	2	Fannie Lewis	67 26	67 26	
5	30	3	Souanna Caywood	67 26	67 26	
		4	Emily Sergeant dead			
			leaving 7 Children, to-wit:			
4	8	1	Jane Farley	9 61	9 61	
Amts. carried over				211 39	211 39	



		ants. brot. over	211 39	211 39	
4 8	2	Louisa King	9 61	9 61	
4 8	3	Rachel Ross	9 61	9 61	
4 8	4	Emily Maupin	9 61	9 61	
4 8	5	Bettie Crider	9 61	9 61	
4 8	6	Grant Sergeant	9 61	9 61	
	7	Mary Chappell, dead leaving 8 Children, to wit:			
	1	Lutitia Chappell	1 20		1 20
7 31	2	Rachel Chappell	1 20	1 20	
7 30	3	Bettie Chappell	1 20	1 20	
	4	John Chappell	1 20		1 20
	5	Eliza Chappell	1 20		1 20
	6	Allen Chappell	1 20		1 20
	7	Washington Chappell	1 20		1 20
	8	Sophia Chappell	1 20		1 20
	5	Mary Howard, dead leaving three children to wit:			
2 21	1	Adeline Howard	22 42	22 42	
5 16	2	Milton Howard	22 42	22 42	
2 1	3	Emily Lewis, dead, leaving two children to wit			
5 16	1	Milton Lewis	11 20	11 20	
3 29	2	Mary Thompson	11 20	11 20	
		Totals	336 08	329 08	7 20



# Statement No. Fourteen

Showing the distribution of \$336.30, the share of Francis Bailey, a sister and devisee of Joseph N. Ely, among her descendants; she being dead, but leaving Eight children, the amount due each and when paid; and the person and amount remaining unpaid on the day of 1901.

Status of Payments 1901		No	Names of said Francis Bailey's Descendants	Share of Each	Paid to Each	Unpaid to Each
4	23	1	Lucinda Parsons	42 03	42 04	
4	23	2	Rebecca Malony	42 03	42 04	
1	10					
4	6	3	H. C. Bailey	42 03	42 04	
1	10					
4	23	4	Chas. S. Bailey	42 03	42 04	
1	10					
4	23	5	John M. Bailey	42 03	42 04	
1	10					
4	6	6	Sallie Cecil	42 03	42 04	
1	10					
4	6	7	Jane Barker	42 03	42 04	
1	10					
4	6	8	Louisa Flannery dead leav-			
			ing three children to-wit	14 01	14 01	
1	10					
4	6	1	Francis Maxwell	14 01	14 01	
1	10					
4	6	2	Lettie Shufflebarger	14 01	14 01	
6		3	P. C. Flannery	14 01	14 01	
			Totals	\$336 24	336 31	



## Statement No. Fifteen.

Showing the distribution of \$336.30 among the descendants of Nimrod C. Ely, a brother and devisee of J. N. Ely; said Nimrod being dead, leaving Five Children, the amount due each, and when paid; and the person and amount remaining unpaid on the day of 1901.

ratio of Payments 1901		No	Names of said Nimrod C. Elys de- scendants	Share of Each	Paid to Each	Unpaid to Each.
4	8	1	Rebecca Weston	67 26	67 26	
1	11					
4	8	2	Emily Minsey	67 26	67 26	
1	11					
4	8	3	Eviline J. Fletcher	67 26	67 26	
4	8	4	Susan Young	67 26	67 26	
		5	Elizabeth Howard, dead leaving 4 Children, to-wit:			
1	19					
4	8	1	Eva J. Skaggs	16 81	16 81	
1	19					
4	1	2	Oeta E. Johnson	16 81	16 81	
4	8	3	John M. Howard; J. A. G. Hyatt, guardian	16 81	16 81	
		4	Mary Gilly dead leaving Six Children to-wit:			
4	9	1	Emory Gilly	2 80	2 81	
4	1	2	Lornie E. Parks	2 80	2 81	
4	9	3	Lucas B. Gilly	2 80	2 81	
4	23	4	Annis M. Litton	2 80	2 81	
4	9	5	Tip Gilly } H. J. Gilly } their	2 80	2 81	
4	9	6	Gale Gilly } guardian	2 80	2 81	
Totals				\$336 27	336 35	



Statement No. Sixteen.

Showing the distribution of \$336.30  
the share of Rebecca Reason, a sister  
and dwisec of Joseph N. Ely, among her  
descendants; she being dead, leaving  
Eight Children, the amount due  
each, and when paid, and the person  
to whom and amount remaining  
unpaid, on the day of 1901.

Dates of Payments	No	Names of Rebecca Reason's Descendants	Share of Each	Paid to Each	Unpaid to Each
1901					
1 9	1	D. S. Reason	42 03	42 04	
4 24	2	A. J. Reason	42 03	42 04	
1 9	3	P. C. Wallace Reason	42 03	42 04	
4 24	4	J. Green Reason	42 03	42 04	
1 9	5	Fannie E. Collier	42 03	42 04	
4 24	6	Amanda Olinger	42 03	42 04	
4 8	7	John Reason dead, leaving 7 Children, to. wit:			
1 10	1	Minerva S. Unsted	6 00	6 00	
4 23	2	Rebecca J. Barron	6 00	6 00	
4 8	3	Peter Reason	6 00	6 00	
3 30	4	Fannie Reason	6 00	6 00	
3 30	5	Belle Reason	6 00	6 00	
3 30	6	John Reason	6 00	6 00	
3 30	7	Cass Reason	6 00	6 00	
1		Totals Carried over	\$294 18	294 24	



		amt brot. over	294 18	294 24	
8		Uma Hobbs dead leaving Eight children to wit:			
4 26	1	A. F. Hobbs	5 25	5 25	
4 20	2	Peter R. Hobbs	5 25	5 25	
4 20	3	John B. Hobbs	5 25	5 25	
4 20	4	Rebecca Johnson	5 25	5 25	
4 20	5	Ambrosi. J. Cox	5 25	5 25	
4 20	6	Jason Cox	5 25	5 25	
4 20	7	Joel S. Cox	5 25	5 25	
4 20	8	Sydia Crow	5 25	5 25	
		Totals	336 18	336 24	

### Statement No. Seventeen.

Showing the distribution of \$336.30, the share of Andrew J. Ely, a brother and devisee of Joseph R. Ely, among said Andrew's descendants; he being <sup>dead</sup> leaving five children, the share of each and when paid, amt. unpaid.

Dates of Payments 1901		Names of Andrew J. Ely's Descendants		Share of Each	Paid to Each	unpaid to Each.
1	9	1	Rebecca R. Leecil	67 26	67 26	
4	3					
1	5	2	Amanda J. Hughes	67 26	67 26	
4	1					
1	12	3	Sarah Myers	67 26	67 26	
4	1					
1	5	4	John J. Ely	67 26	67 26	
4	1					
1	3	5	Mary E. Cox	67 26	67 26	
4	1					
			Totals	336 30	336 30	



# Statement No. Eighteen.

Showing the distribution of ~~\$~~336.30, the share of Polly Smyth, a sister and devisee of Joseph N. Ely, among her descendants; she being dead leaving Eight children; the share of each, date and amount of payments; and the person to whom and amount remaining unpaid on the

Dates of Payments 1901		No	Names of Polly Smyth's Descendants	Share of Each	Paid to Each	1901. unpaid to Each
4	11	1	Tobias T. Smyth	42 03	42 04	
4	15	2	Sarah E. Cooney	42 03	42 04	
1	5					
4	9	3	Mary Carter	42 03	42 04	
		4	Rebecca Johnson dead, leaving 11 children, to-wit:			
1	5	1	Joseph Johnson	3 82	3 82	
4	27					
2	23	2	John W. Johnson	3 82	3 82	
4	27					
2	23	3	A. J. Johnson	3 82	3 82	
6	24					
1	15	4	Mary Robbins	3 82	3 82	
5	16					
4	6	5	Sarah D. Collier	3 82	3 82	
1	6					
2	23	6	Emily Turner	3 82	3 82	
4	27					
1	5	7	Keta Booth	3 82	3 82	
4	27					
		8	Gola Bayley	3 82	3 82	3 82
		9	Lora Johnson	3 82		3 82
4	6	10	Nancy Stanley	3 82	3 82	
			Carried over	164 29	156 68	7 64



		ants. brot. over	164	29	156	68	7	64
		11 James Johnson dead leav-						
		ing four children, to-wit:						
4.	24	1 Mollie Hughes	95		95			
		2 Fannie Johnson	95				95	
		3 Rebecca Johnson	95				95	
		4 Rosa Johnson	95				95	
5	18	5 Joseph Smyth dead leav-						
		ing 8 Children to-wit						
5	18	1 Sarah Mullins	5	25	5	25		
4	1	2 Tennessee Smyth	5	25	5	25		
1	10	3 Rebecca Olinger	5	25	5	25		
4	23	4 Emmett Smyth Tennessee	5	25	5	25		
3	23	5 Fannie Smyth Smyth	5	25	5	25		
3	23	6 Flora Smyth their	5	25	5	25		
3	23	7 Joseph Smyth Guardian	5	25	5	25		
4	1	8 America Bailey	5	25	5	25		
1	1							
5	18	6 Wm. Q. Smyth dead leaving						
		Four Children, to-wit:						
5	20	1 Jas. M. Smyth Elkmanah	10	50	10	50		
5	20	2 Cora Wynn Wynn	10	50	10	50		
5	20	3 Jackson E. Smyth their	10	50	10	50		
5	20	4 David Smyth Guardian	10	50	10	50		
		7 America Ross, dead leaving						
		one child, to-wit:						
2	2	1 Mary Ross	42	03	42	04		
4	23							
		ants carried over	294	12	283	67	10	49



		5	Amts. brok- over	294	12	283	67	10	49
		8	Francis Parsons dead leaving Three children, to-wit:						
4	13	1	Emma Shank	14	01	14	01		
4	16	2	Shurman Parsons } Zion Parsons	14	01	14	01		
4	16	3	George Parsons } their guardian	14	01	14	01		
			Totals	\$336	15	325	70	10	49

### Statement No. Nineteen.

Showing the distribution of ~~\$336.50~~  
the share of Barbary Parsons, a sister  
and devisee of Joseph H. Ely, among  
her descendants; she being dead, leaving  
Six children, the amount due each  
and when paid; and the amount un-  
paid and whom such person is, on the

Date of Payments (1901)		day of	Names of Barbary Parsons's Heirs	1901.		
				Share of Each	Paid to Each	unpaid Each
7	10	1	Fannie E. Fells	56	05	56 05
7	17	2	Elizabeth J. Bell	56	05	56 05
7	13	3	Samuel H. Parsons	56	05	56 05
7	13	4	Cynthia R. Strade	56	05	56 05
			Totals over	\$224	20	224 20



*ante brot over*

~~24~~ 20 224 20

5 Emily H. Ford, dead leaving  
one child, to-wit:

7 20

1 Katie Bowers

56 05 56 05

6 Susan C., married a Harris,  
then a Perry, she is dead,  
leaving 5 children, to-wit:

7 12

1 John H. Harris

11 21 11 21

7 16

2 Mary Goodner

11 21 11 21

7 16

3 Bess F. Perry

11 21 11 21

7 16

4 Elsie Perry

11 21 11 21

5 Frank Perry

11 21 11 21

*Totals*

~~33~~ 6 30 225 09 11 21



Statement No. Twenty.

Showing the amount in said Ely & Smyth's hands as admr. of said estate, on the 4<sup>th</sup> day of October 1901; and who is entitled to the same, the amount thereof to which each person is entitled, and whether such person is a minor or adult, and residence when known.

Names	Residence		Adult or Minor	Amount due to Each.
	Post Office	State		
Hudson Lane		Ky	Minor	95
Belle Lane		"	do	95
Lera Lane		"	do	95
Suther Turner	Punington Gap	V <sup>a</sup>	"	1 91
Wm E. Turner	do	"	"	1 91
Howard		Ky	"	5 25
Howard		"	"	5 25
Emma Brausan		"	"	4 15
Maybelle Brausan		"	"	4 15
Lizzie Goldiron		"	"	1 86
George Goldiron		"	"	1 86
Rosie Ely		"	"	8 40
W. C. Evans		"	"	4 20
Cornelia F. Evans		"	"	4 20
Lutitia Chappell	Chappell	"	"	1 20
John Chappell	do	"	"	1 20
				48 39



amt. brot. over				48	39
Elk. Chappell	Chappell	Qty	Min.	1	20
Allen Chappell	do	"	"	1	20
Geo. H. Chappell Jr	"	"	"	1	20
Sophia Chappell	"	"	"	1	20
Gola Bailey	Slump	7 <sup>2</sup> / <sub>7</sub>	"	3	82
Leora Johnson	do	"	"	3	82
Fannie Johnson	"	"	"		95
Rebecca Johnson	"	"	"		95
Rosa Johnson	"	"	"		95
Frank Perry			"	11	21
Unpaid				74	89

1901  
11-26 By amt. for contract 74 89  
To amt. rec'd. G. C. Noel receiver 74 89  
\$ 74 89 74 89



# Statement No. Twenty One

A Recapitulation of the whole administration account of said Ely & Smyth

To Total amt. adms. Recd. per Stat. No. 1810909 21

Disbursed as follows:

Per Statement No.	2	723	41
Atty's. fees per Statement No. 6	9	800	00
Adms. Comis. per " " No. 6	789	748	79
Pd. to Heirs per Stat. No. 6	3	296	19
" " Devises " " " 7	19	77	78
" " Devises " " " 10	3	19	00
" " " " " " 11	3	24	22
" " " " " " 12	3	19	31
" " " " " " 13	3	29	08
" " " " " " 14	3	36	31
" " " " " " 15	3	36	35
" " " " " " 16	3	36	24
" " " " " " 17	3	36	30
" " " " " " 18	3	25	70
" " " " " " 19	3	25	09
Bal. in adms hands per Stat. 20	74	89	

Totals

10908 66 10909 21

Discrepancies

55

Amt. pd. J. C. Noel receiver

74 89

1901

11-26



Smyth & Ely admr.

vs { Statutes  
No 1 to 21  
with Comr. Puring  
two reports

E. J. Punnington et al



Smyth & Ely administrators.

vs.

E. J. Punnington et al

and

John Z & Mary S. Ely

vs

J. M. Smyth et al

In Chancery.

To the Hon. H. A. H. Skene, Judge  
of the Circuit Court for Lee County:

The undersigned, who was on  
the 7th day of March, 1901, appointed  
in said cause a special Com-  
missioner for the purpose of stat-  
ing and settling the adminis-  
tration account of John Z. Ely and  
J. Morrison Smith, administrators  
of Sarah S. Ely dec'd., begs leave  
to report that after giving the  
attorneys in said causes ten days  
notice of the time and place of his  
sittings, at his office in the  
town of Punnington Gap, Va., on  
the 23<sup>rd</sup> day of Sept., 1901, up to  
and including the 4th day of October,  
1901, he proceeded to execute said  
dunes; and, having reference  
to the various orders in said cases,  
the result of your Commissioner's



be seen by an inspection of several statements herewith filed as a part of this report, and numbered from one to twenty-one inclusive.

The statement No. one charges said administrators with what went into their hands, and shows them chargeable with \$10909.21; statement No. two shows what said administrators paid out in the way of indebtedness of this decedent, burial expenses, costs of administration, taxes &c, amounting in the aggregate to \$723.41; statement No. three shows the apportionment of said \$723.41, as per the decree of your honor entered in said first named cause on Nov. 17<sup>th</sup> 1900, in the proportion of .6534% for the Ely side and .3466% for the Pennington - Graham side.

As there is an explanation just preceding the calculations and figures of each statement, your commissioner does not deem it necessary to refer and explain particularly and explicitly each



statement from One to twenty-one; but here refers to each and every one of them, which according to the mind of your Commissioner is correct in calculations and shows, when read from the first to last, a plain and clear statement of said administrator's whole account.

Owing to the number of persons, interested in this estate, their remoteness from the parent stock and the way they were scattered over the country, it took a great deal of time to make the calculations, and almost untold trouble to find all the various persons interested, get their respective share of money to them, and the administrator get back from them proper receipts. But after very industrious efforts and ceaseless energy said administrator have found all the persons interested in said estate and have paid all except those shown in Statement No. twenty; and from an inspection of Statement



twenty, it will be seen, who are unpaid, the amount due to each person, and whether *per jure*. From this statement it will be seen that there is yet in their hands only \$74.89. All the persons to whom this money is going are infants, except one, and all without guardians in this State.

Now on the payment of said \$74.89 and \$10<sup>00</sup> for recording this settlement, said administrators will have properly accounted for all the \$10909.21 that went into their hands.

Said administrators are very anxious to close their entire administration account, and they ask your honor to appoint a receiver for said \$74.89, and owing to the fact that all, but one of the parties entitled to said \$74.89 being infants of various ages, and they having no guardians in this State, your Commissioner advises that a receiver be



30

appointed to take said sum  
of \$74.89, and he be required  
to loan the same on good secu-  
rity, and as the various persons  
to whom it is going, come of  
age, they be by him paid their  
share as shown in statement  
No. 20.

Your Commissioner desires  
to say that this estate has been  
wound up and brought to a close  
with wonderful and extraordi-  
nary dispatch, when it is taken  
into account that Mrs. Ely  
died April, 1900, there was  
a spirited contest over the will  
of Joseph M. Ely and the most  
of said estate was in notes and  
bonds.

Now your Commissioner having  
performed the duties imposed up-  
on him as best he could, he prays  
that this report and statements there-  
with be adopted and confirmed, and  
he be released from further duty.

All which is respectfully sub-  
mitted this October 6<sup>th</sup> 1901.

E. H. Pennington Spe-  
Commissioner.



City & Smyth adms.

vs } Report of  
Adms. Settle  
made by  
E. H. Huntington

E. J. Huntington et al

Filed Oct 21st 1901

A. B. Mansy Clerk

Recorded in Settle-  
ment of Fiduciaries  
No. 4 pages 118 to 140 ..

Indexed-

Examined Feb 1st 1902





Mr. *Sarah S Ely*

1883 To **M. B. WYCAL**, Treasurer of

**LEE**

County, Dr.

	STATE TAX, 40 cents on the \$100.	County Levy, 25 cents on the \$100.	County School Tax 10 cents on \$100.	District School Tax 10 cents on \$100.	TOTAL AMOUNT OF TAXES.
To..... Acres of Land, Value, \$.....					
Property, Income, &c., \$ <i>5440</i>	<i>21 76</i>	<i>13 60</i>	<i>5</i>		<i>35 36</i>
Capitation Tax, .....					
County School Tax, .....			<i>5 44</i>		<i>5 44</i>
District School Tax, .....				<i>5 44</i>	<i>5 44</i>
Total .....	<i>21 76</i>	<i>13 60</i>	<i>5 44</i>	<i>5 44</i>	<i>46 24</i>

JONESVILLE SENTINEL.

Received Payment in full, .....

*M B Wycal* Treasure.



'T. M. T.'

17  
6  
7  
9



Mr. Joseph N. Eley18 82 To **Z. T. CECIL**, Treasurer of **LEE** County, Dr.

	STATE TAX, 40 cents on the \$ 00		County Levy, 20 cents on the \$ 100.		County School Tax 10 cents on \$ 100.		District School Tax, 3 cents on \$ 100.		TOTAL AMOUNT OF TAXES.	
To <sup>3 1/4</sup> 22.5 Acres of Land, Value, \$1649.25	6	76	5	04	1	68	5	1	13	99
Property, Income, &c., \$4848	19	39	14	55					23	94
Capitation Tax,	1	00	5	0					1	50
County School Tax,					4	85			4	85
District School Tax,							1	45	1	45
Total	27	15	20	09	6	53	1	96	48	73



Note on U.S. P. 50.75

Ticket No. 2.

50.75

45.75

5.00



Mrs. S. S. Ely

Rocky Station District. No. 4.

To E. S. FLANARY, Treasurer Lee County, Virginia, Dr.

No. P	No. 1899	State Tax 30	St'e sch'l tax	Co. Levy 25	Road Tax 25	Co. sch'l tax	Dis Sch'l tax	TOTAL AMT.
		cts. on \$100	10 cts on \$100	cts. on \$100	cts. on \$100	10 cts on \$100	10 cts on \$100	OF TAXES.
Head Tax	1	\$1 00		50				\$1 50
Per. Prop.	8985'	26 95'	8	29 25	46 22	44	899	898 98 83
No. 2 Tracts	8232	679	233	558	558	223	223	2465'
236 Acres								
Lots	11217	33 74	11 22	28 04	28 04	11 22	11 21	123 48
TOTAL								
5 per cent pen'ty								

Received Payment:  
Nov 18/99

E. S. Flanary, Treasurer.



Mr *Sarah S Ely*

Rocky Station District. No. 4.

To W. E. WYNN, Treasurer Lee County, Virginia, Dr.

No. P	No. L	1898	State Tax 30	St's sch'l tax	Co. Levy 25	Road Tax 25	Co. sch'l tax	Dis sch'l tax	TOTAL AMT.
			cts. on \$100	10 cts on \$100	cts. on \$100	cts. on \$100	10 cts on \$100	10 cts on \$100	OF TAXES.
Head Tax			\$1.50		50				\$1.50
Per. Prop.			84/10 25 23	8 41	210 221 02	8 41	84/1 92 51		
No. 2 Tracts			223 2	4 79	2 25	5 58	5 58	2 25	2 25 24 48
234 Acres									
Lots			10 44 2	5 20 2	10 64	2 75 0	24 60	10 64	10 64 11 7 19
TOTAL									
5 per cent pen'ty									

*1000 1/1/78*

Received Payment

*ES Manary*

Treasurer.



Mr. *Sarah Ely* Rocky Station District, No. 4  
 To W. E. WYNN, Treasurer Lee County, Virginia, Dr.

No. P <sup>1</sup> / <sub>2</sub>	No. L <sup>1</sup> / <sub>2</sub>	1897	State Tax 30	St'e sch'l tax	Co. Levy 30	Road Tax 20	Co. sch'l tax	Dis Schl tax	TOTAL AMT.
			cts. on \$100	10 cts on \$100	cts. on \$100	cts. on \$100	10 cts on \$100	10 cts on \$100	OF TAXES.
Head Tax			<del>\$1.00</del>		<del>.50</del>				<del>\$1.50</del>
Per. Prop.	8460	2538	846	2538	1692	846	846	2306	
No. <sup>1</sup> / <sub>2</sub> Tracts	222	869	223	669	440	222	223	2455	
Acres									
Lois	10492	5207	1049	5207	2138	1069	1069	1791	
TOTAL									
5 per cent pen'ty									

*Nov 23/97*  
 Received Payment *Ed H. H. H. H. H.* Treasurer.



Mr. Sarah S. Ely

Rocky Station District.

No. 4

To W. E. WYNN, Treasurer Lee County, Virginia,

Dr.

No. P <sup>d</sup>	No. L	1896	State Tax 30	St'e sch'l tax	Co. Levy 40	Road Tax 20	Co. sch'l tax	Dis Schl tax	TOTAL AMT.
6	5-6	Val.	cts. on \$100	10 cts on \$100	cts. on \$100	cts. on \$100	10 cts on \$100	10 cts on \$100	OF TAXES.
			<del>\$1.00</del>		<del>.50</del>				<del>\$1.50</del>
Head Tax									
Per. Prop.	8350	25,05	8,35	33.40	16 70	8 35	8 35	10020	
No. 2 Tracts	223263	6 59	223	892	4 46	2 23	2 23	2676	
2 36 Acres									
4									
Lots									
TOTAL	1058263	31,74	10.58	42.82	21.16	10.58	10,58	12696	
5 per cent pen'ty									

Received Payment

Treasurer.



Clarino

126.96.

6.32

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120.64



Mr. Sarah S. Ely Rocky Station District.

No. 4

To W. E. WYNN, Treasurer of Lee County, Virginia, Dr.

No. P	No. L	1895	State Tax 30 cts. on \$100	State sch'l tax 10 cts on \$100	Co. Levy 40 cts. on \$100	Road tax 20 cts. on \$100	Co Sch'l tax 10 cts on \$100	Dis. Sch'l tax 10 cts. on \$100	TOTAL OF TAXES.	AMT.
	Val.		\$1 00		50				\$1 50	
Head Tax										
Per. Prop.	7900		23 70	7 90	31 60	13 80	7 90	7 90	94 80	
No. 2 Tracts										
256 1/4 Acres	22324		6 70	2 24	8 74	4 40	2 24	2 24	26 92	
Lots										
TOTAL			30 40	10 14	40 54	20 27	10 14	10 14	121 62	
5 per cent pen'ty										

Received Payment E. S. Flannery Treasurer.



$$\begin{array}{r} 100 \\ 62 \\ \hline 38 \end{array}$$



Mr. *Sarah S. Ely*

ROCKY STATION DISTRICT.

No. 3

To *J. A. G. Hyatt*, Treasurer of Lee County, Virginia, Dr.

No. P <i>5</i>	No. L <i>27-1894</i>	State Tax 30 cts. on \$100.	State sch'l tax 10 cts on \$100	Co. Levy 40 cts. on \$100	Road Tax 20 cts. on \$100	Co, Sch'l tax 10 cts. on \$100	Dis. Sch'l tax 10 cts. on \$100	TOTAL AMT. OF TAXES,	
<i>9</i>	<i>18</i> Val.	<del>\$100</del>		<del>30</del>				<del>\$100</del>	
Head Tax									
Per. Prop.	<i>7830</i>	<i>2349</i>	<i>783</i>	<i>3132</i>	<i>1566</i>	<i>783</i>	<i>783</i>	<i>93</i>	<i>96</i>
No. <i>2</i> Traacts									
<i>2363</i> Acres	<i>2329</i> <sup><i>62</i></sup> / <sub><i>4</i></sub>	<i>670</i>	<i>224</i>	<i>893</i>	<i>446</i>	<i>224</i>	<i>224</i>	<i>26</i>	<i>81</i>
Lots									
TOTAL		<i>3019</i>	<i>1007</i>	<i>4025</i>	<i>2012</i>	<i>1007</i>	<i>1007</i>	<i>120</i>	<i>77</i>
5 per cent pen'ty									

Received Payment *Octo 31<sup>st</sup> 1894* *J. A. G. Hyatt* Treasurer.



120.27

89.64

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31.13



MR. *Ely Sarah S.*

District No. *3*

1893.

TO

J. P. GRAHAM, TREASURER OF LEE COUNTY, VA.

DR.

<i>2</i> TRACTS.		State Tax 30 cents on the \$100.		State School Tax, 10 cents. on the \$100.		Co. School Tax, 10 cents. on the \$100.		Dist. School Tax, 10 cents. on the \$100.		Road Tax, 15 cents on the \$100.		County Levy 25 cents on the \$100.		TOTAL AMOUNT OF TAXES.	
To <i>236 3/4</i> acres land, val. <i>\$2232</i>		<i>6</i>	<i>70</i>	<i>2</i>	<i>24</i>	<i>2</i>	<i>24</i>	<i>2</i>	<i>24</i>	<i>3</i>	<i>37</i>	<i>5</i>	<i>59</i>	<i>22</i>	<i>38</i>
Property, income, etc.	<i>8010</i>	<i>24</i>	<i>03</i>									<i>20</i>	<i>03</i>	<i>44</i>	<i>06</i>
Capitation Tax, . .			<i>00</i>												<i>00</i>
County School Tax, .				<i>8</i>	<i>01</i>									<i>8</i>	<i>01</i>
District School Tax, .						<i>8</i>	<i>01</i>							<i>8</i>	<i>01</i>
State School Tax, . .								<i>8</i>	<i>01</i>	<i>12</i>	<i>02</i>			<i>20</i>	<i>03</i>
Total, . . .														<i>102</i>	<i>49</i>

Received Payment in full,

*John P. Graham*

Treasurer.



12

102.49

10

500  
249  

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2.51

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92.49



MR. *Ely Sarah S.*District No. *3*

1892.

TO

J. P. GRAHAM, TREASURER OF LEE COUNTY, VA.

DR.

<i>2</i> TRACTS.	STATE TAX, 30 cents on the \$100.	State School Tax, 10 cents on the \$100.	County School Tax, 10 cents on the \$100.	District School Tax, 10 cents on the \$100.	Road Tax, 15 cents on the \$100.	County Levy, 25 cents on the \$100.	TOTAL AMOUNT OF TAXES.
To <i>236 3/4</i> acres land, val. <i>2232 60</i>	<i>6 70</i>	<i>2 24</i>	<i>2 24</i>	<i>2 24</i>	<i>3 37</i>	<i>5 59</i>	<i>22 38</i>
Property, income, etc. <i>7460</i>	<i>22 38</i>						<i>22 38</i>
Capitation Tax, . . .	<i>00</i>						<i>00</i>
County School Tax, . .		<i>7 46</i>					<i>7 46</i>
District School Tax, . .			<i>7 46</i>				<i>7 46</i>
State School Tax, . . .				<i>7 46</i>	<i>11 19</i>	<i>18 65</i>	<i>37 30</i>
Total, . . .							<i>96 98</i>

Received Payment in full,

*John P. Graham* Treasurer.



22.32  
74.60  

---

96.92



MR. Ely Sarah S. District No. 3  
 1891. TO J. P. GRAHAM, TREASURER OF LEE COUNTY, VA. DR.

<u>1</u> TRACTS.	State Tax 30 cents on the \$100.	State School Tax, 10 cents on the \$100.	Co. School Tax, 10 cents. on the \$100.	Dist. School Tax, 10 cents on the \$100.	Road Tax, 15 cents on the \$100.	County Levy 40 cents on the \$100.	TOTAL AMOUNT OF TAXES.
To <u>225</u> acres land, val. \$ <u>1693</u>	<u>5 08</u>	<u>1 69</u>	<u>1 69</u>	<u>1 69</u>	<u>2 54</u>	<u>4 23</u>	<u>16 92</u>
Property, income, etc. <u>7700</u>	<u>23 10</u>				<u>11 58</u>	<u>19 25</u>	<u>53 93</u>
Capitation Tax, . .					<del><u>11 58</u></del>	<del><u>19 25</u></del>	
County School Tax, .		<u>7 70</u>					<u>7 70</u>
District School Tax, .			<u>7 70</u>				<u>7 70</u>
State School Tax, . .				<u>7 70</u>			<u>7 70</u>
Total, . . .						<u>1</u>	<u>893.95</u>



80.00

50

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130.00

93.95

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36.05



MR. *Ely Sarah S.*District No. *3*

1890.

TO

J. P. GRAHAM, TREASURER OF LEE COUNTY, VA.

DR.

TRACTS.	State Tax 30 cents on the \$100.	State School Tax, 10 cents on the \$100.	Co. School Tax, 10 cents on the \$100.	Dist. School Tax, 10 cents on the \$100.	Road Tax, 15 cents on the \$100.	County Levy 40 cents on the \$100.	TOTAL AMOUNT OF TAXES.
To <i>2253</i> acres land, val. <i>\$16924</i>	<i>5 08</i>	<i>1 69</i>	<i>1 69</i>	<i>1 69</i>	<i>2 54</i>	<i>4 23</i>	<i>16 92</i>
Property, income, etc. <i>6980</i>	<i>20 94</i>				<i>10 47</i>	<i>17 45</i>	<i>48 86</i>
Capitation Tax, . . .	<i>00</i>						<i>00</i>
County School Tax, .		<i>6 98</i>					<i>6 98</i>
District School Tax, .			<i>6 98</i>				<i>6 98</i>
State School Tax, . .				<i>6 98</i>			<i>6 98</i>
Total, . . .							<i>86 72</i>



MR.

1889.

Ely Sarah, S.

District No.

8

TO J. P. GRAHAM, TREASURER OF LEE COUNTY, VA.

DR.

2 TRACTS.		State Tax 30 cents on the \$100.	State School Tax, 10 cents on the \$100.	Co. School Tax, 10 cents on the \$100.	Dist. School tax 10 cents on the \$100.	Road Tax, 15 cents on the \$100.	County Levy 40 cents on the \$100.	TOTAL AMOUNT OF TAXES.
To	225 <sup>3</sup> / <sub>4</sub> acres land, val. \$1806	5 42	1 81	1 81	1 81	2 71	7 23	20 79
Property, income, etc.	6320	18 96				9 48	25 28	53 72
Capitation Tax . . .		00						00
County School Tax, .			6 32					6 32
District School Tax, .				6 32				6 32
State School Tax, . .					6 32			6 32
Total, . . .								93 47

Received Payment in full,

John P. Graham

Treasurer.



1806

6320

8122

115-

40630

8126

8126

93.44

105-

93.47

11.53



Mr. Ely Sarah S. District No. 3  
 1888. To J. P Graham, Treasurer of Lee County, Dr.

<u>1</u> TRACTS.		State Tax, 50 cents on \$100.	County Levy, 50 cents on \$100.	County School Tax, 10 cents on \$100.	District School Tax, 10 cents on \$100.	State School Tax, 10 cents on \$100.	Road Tax.	TOTAL AMOUNT OF TAXES.
<u>2257</u> Acres land, value, \$ <u>1806</u>		<u>542</u>	<u>903</u>	<u>181</u>	<u>181</u>	<u>181</u>	<u>361</u>	<u>2349</u>
Property, income, etc.	<u>695320</u>	<u>8634</u>	<u>76</u>					<u>5562</u>
Capitation Tax, . . .	<u>857032</u>							<u>695</u>
County School Tax, . .	<u>45358</u>			<u>695</u>				<u>695</u>
District School Tax, . .					<u>695</u>			<u>695</u>
State School Tax, . . .						<u>695</u>		<u>695</u>
Total, . . . . .							<u>1391</u>	<u>1391</u>

Received Payment in full,

John P Graham \$11387  
 Treasurer.



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 \end{array}$$

$$\begin{array}{r}
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 262770 \\
 8759 \\
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 11387
 \end{array}$$



Mrs. Sarah S. Elly District No. 03  
 1887. To J. P. Graham, Treasurer of Lee County, Dr.

<u>2</u> TRACTS.		State Tax, 30 cents on \$100.	County Levy, 50 cents on \$100.	County School Tax, 10 cents on \$100.	District School Tax, 10 cents on \$100.	State School Tax, 10 cents on \$100.	TOTAL AMOUNT OF TAXES.	
To <u>278 1/4</u> acres land, value, \$	<u>2280</u>	6 69	11 15	2 23	2 23	2 23	4 46	<u>28.99</u>
Property, income, etc.	<u>6225</u>	78 67	31 12	<del>2 23</del>				<u>49.79</u>
Capitation Tax, . . .								
County School Tax, . . .				6 23				<u>6.23</u>
District School Tax, . . .					6 22			<u>6.22</u>
State School Tax, . . .						6 22	12 44	<u>18.66</u>
Total, . . . . .								<u>\$109.89</u>

Received Payment in full, John P. Graham Treasurer.



Tax Ticket  
for 1887  
\$ 109-89



Mr. Sarah S. Ely  
1886.

District No. \_\_\_\_\_

To M. B. WYGAL, Treasurer of Lee County,

Dr.

1 TRACTS.

	STATE TAX, 30 cents on the \$100.	County Levy, 50 cents on the \$100.	County School Tax 10 cents on \$100.	District School Tax 10 cents on \$100.	State School Tax, 10 cts on the \$100.	TOTAL AMOUNT OF TAXES.
To <u>9253</u> / <u>4</u> acres land value	\$1906 5 42	9 03	1 81	1 81	1 81	19 89
Property, income, etc.,	5975 17 95	29 87	5 98	5 98	5 98	65 76
Capitation Tax.	—	—				—
County School Tax.						
District School Tax.						
State School Tax.						
Total	25 37 38 90	7 79	7 79	7 79	7 79	85 64

Received Payment in full,

M. B. Wygal

Treasurer.



Mr.

1885.

Sarah D. Ely

District No.

3

To M. B. WYGAL, Treasurer of Lee County,

Dr.

		State Tax, 30 cts. on the \$100.	County Levy, 25 cts. on the \$100.	State School Tax, 10 cts. on the \$100.	County School Tax, 10 cts. on the \$100.	Dis't. School Tax, 10 cts. on the \$100.	Total Am't. of Taxes.
..... 1 ..... TRACTS.							
To <u>22 5<sup>3</sup>/<sub>4</sub></u> acres land value	<u>1806</u>	<u>5 42</u>	<u>5 42</u>	<u>1 81</u>	<u>1 81</u>	<u>1 81</u>	<u>16 27</u>
Property, income, etc. . . . .	<u>5670</u>	<u>17 01</u>	<u>17 01</u>	<u>5 67</u>	<u>5 67</u>	<u>5 67</u>	<u>51 03</u>
Capitation Tax, . . . . .							
State School Tax, . . . . .							
County School Tax, . . . . .							
District School Tax, . . . . .							
Total, . . . . .		<u>22 43</u>	<u>22 43</u>	<u>7 48</u>	<u>7 48</u>	<u>7 48</u>	<u>67 30</u>

RECEIVED PAYMENT.

M B Wygal

COUNTY TREASURER.



Mr *Sarah J. Elzy*

District No. *3*

1884. To M. B. WYGALL, Treasurer of LEE County, Dr

	State Tax, 30 cents on the \$100.	State School Tax, 10 cts. on the \$100.	County Levy 25 cts. on the \$100.	Co. School 10 cts. on the \$100.	Dist. School Tax 10 cents on \$100.	TOTAL AMOUNT OF TAXES.
To..... Acr's Land value						
Property, Income, etc. <i>58.30</i>	<i>17 52</i>	<i>5 84</i>	<i>15 09</i>	<i>5 84</i>	<i>5 84</i>	<i>50 13</i>
Capitation Tax.....						
State School Tax.....						
County School Tax.....						
District School Tax....						
Total .....						<i>50 13</i>

Received Payment,

*M B Wygall*

M. B. WYGALL, County Treasurer.

The Progressive Age Job Office, Estillville, Seott County, Va.



80113

151

65. 18



Mr. Joseph N. Ely

District No. 2

1884.

To M. B. WYGAL, Treasurer of Lee County,

Dr.

2 TRACTS.		State Tax, 30 cents on the \$100.	County Levy, 25 cents on the \$100.	State School Tax, 10 cents on the \$100.	County School Tax, 10cts. on the \$100.	District School Tax, 10cts. on the \$100.	Total Amount of Taxes.
To <u>2253</u> 4 acres land value	1689 75	5 16	4 22	1 69	1 69	1 69	14 45
Property, income, etc. - - -							
Capitation Tax, - - - - -							
State School Tax, - - - - -							
County School Tax, - - - - -							
District School Tax, - - - - -							
Total, - - - - -							14 45

RECEIVED PAYMENT.

M. B. Wygal

COUNTY TREASURER.

14 45  
92  
15 7



Tickets No 3.



Tax Tickets filed as  
Exhibits with the deposition  
of John Z. Ely.

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PENNINGTON BROS.  
ATTORNEYS-AT-LAW,  
PENNINGTON GAP AND JONESVILLE, VA.



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 \end{array}$$

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$$\begin{array}{r}
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PERSONS, PROPERTY, AND OTHER SUBJECTS

Ascertained for Taxes and Levies in the County of Lill, within 3rd District, E. S. Larmer, Commissioner of the Revenue,

JAMES E. GOODE, Printer, 824 Main street, Richmond.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY:

Lill

NAME OF THE DISTRICT:

Rocky Station

No. OF THE DISTRICT:

NAME OF THE COMMISSIONER:

E. S. Larmer

SCHEDULE A.

1 2  
1 2

White Males and Colored Males ascertained for State taxes.

No. of white male inhabitants who have attained the age of 21 years, taxed at one dollar.  
No. of colored male inhabitants who have attained the age of 21 years, taxed at one dollar.

RESIDENCE OF EACH TAXPAYER.

NAMES OF PERSONS CHARGED WITH TAXES.

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OF TAXATION FOR THE YEAR 1882,

which were therein on the first day of February, or which were removed therein before the Commissioner's Books were delivered to the Officer charged with collection of Taxes.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY: Lee

NAME OF THE DISTRICT: Rocky Station

No. OF THE DISTRICT: 3rd

NAME OF THE COMMISSIONER: E. S. Larimer

| SCHEDULE C.—Taxed at Forty Cents on the One Hundred Dollars' Value.                                                           |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 | SCHEDULE D.—Income.                                                                                                                                               |                                                                                                                                                                          | TOTAL TAX.                                                                                                                                                                                     | PUBLIC FREE SCHOOL PURPOSES.        |                                                       |                                                         | COUNTY PURPOSES.                                         | PROOF.                                    |             |  |  |     |      |            |  |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------|-------------------------------------------|-------------|--|--|-----|------|------------|--|
| 25                                                                                                                            | 26                                                                               | 27                                                                                                                                                                                                                          | 28                                                                                                              | 29                                                            | 30                                                                        | 31                                                                                                                                                                                                                                          | 32                                                                                                                                                      | 33                                                 | 34                                                                                                                     | 35                                                                                                                            | 36                                                | 37                                              | 38                                                                                                                                                                | 39                                                                                                                                                                       | 40                                                                                                                                                                                             | Name or No. of the School District. | Amount of tax levied for County free school purposes. | Amount of tax levied for District free school purposes. | Total levy for County and District free school purposes. | Amount of tax levied for County purposes. | SCHEDULE A. |  |  | No. | TAX. | TOTAL TAX. |  |
| Tax on aggregate value of personal property enumerated in Schedule B, taxed at forty cents on the one hundred dollars' value. | Value of all solvent bonds, demands, claims, notes, and other evidences of debt. | Value of capital, including moneys, credits, or other thing remaining invested, whether said investment was made originally in this or any other state or country, loaned, used, or employed in business out of this state. | Value of all capital of incorporated joint stock companies, building or loan associations, not otherwise taxed. | Capital invested, used, or employed in any trade or business. | All money on deposit with any bank or other corporation, firm, or person. | All money and the value of principal and interest, and personal estate and credits under his control as court receiver or commissioner, in pursuance of any order, judgment, or decree of any court, as agent, guardian or other fiduciary. | The amount of any money, and the value of any personal estate or credits, deposited to the credit of any suit and not in the hands of a court receiver. | Value of all toll-bridges, turnpikes, and ferries. | Aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Tax on aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Total value of all property in Schedules B and C. | Total tax on all property in Schedules B and C. | Aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Tax on aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Total amount of state taxes on all subjects, viz: Persons in Schedule A, Personal Property in Schedule B, Personal Property in Choses in Action, &c., in Schedule C, and Income in Schedule D. |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 1                                                                                                                             | 2 39                                                                             | 4251                                                                                                                                                                                                                        |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    | 4251                                                                                                                   | 1700                                                                                                                          | 4848                                              | 19 39                                           |                                                                                                                                                                   |                                                                                                                                                                          | 20 39                                                                                                                                                                                          |                                     | 485                                                   | 1 45                                                    | 6 30                                                     | 15-05                                     |             |  |  |     |      |            |  |
| 2                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 3                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 4                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 5                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 6                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 7                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 8                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 9                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 10                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 11                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |
| 12                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                             |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |             |  |  |     |      |            |  |

Virginia, Lee County, to wit:  
I, B. M. Morgan, clerk of the County Court for said county, do certify that the foregoing is a true transcript for the Personal Property Books for year 1882, page 5, line 13, Third Commissioner's District as the same appears on said Books in my office. Given under my hand this 17th day of September, 1900.  
B. M. Morgan clerk.

|                                              |       |                                                                      |     |        |  |
|----------------------------------------------|-------|----------------------------------------------------------------------|-----|--------|--|
| 1                                            | 1st.  | White males over 21 yrs. of age, taxed at \$1.....                   |     |        |  |
| 2                                            | 2d.   | Colored males over 21 yrs. of age, taxed at \$1.....                 |     |        |  |
| Total tax on all subjects in Schedule A..... |       |                                                                      |     |        |  |
| SCHEDULE B.                                  |       |                                                                      | No. | VALUE. |  |
| 3                                            | 1st.  | Horses, mules, asses and jennets .....                               |     |        |  |
| 4                                            | 2d.   | Cattle .....                                                         |     |        |  |
| 5                                            | 3d.   | Sheep .....                                                          |     |        |  |
| 6                                            |       | Goats .....                                                          |     |        |  |
| 7                                            | 4th.  | Hogs .....                                                           |     |        |  |
| 8                                            | 5th.  | Pleasure carriages, &c....                                           |     |        |  |
| 9                                            | 6th.  | Books, pictures, &c.....                                             |     |        |  |
| 10                                           | 7th.  | Mechanics' tools.....                                                |     |        |  |
| 11                                           | 8th.  | Farming implements, &c.                                              |     |        |  |
| 12                                           | 9th.  | Mineral productions.....                                             |     |        |  |
| 13                                           | 10th. | Felled timber and bark...                                            |     |        |  |
| 14                                           | 11th. | Watches.....                                                         |     |        |  |
| 15                                           | 12th. | Clocks .....                                                         |     |        |  |
| 16                                           |       | Sewing machines.....                                                 |     |        |  |
| 17                                           | 13th. | Pianofortes, harps, &c....                                           |     |        |  |
| 18                                           | 14th. | Household and kitchen furniture.....                                 |     |        |  |
| 19                                           | 15th. | Value of gold and silver plate, &c.....                              |     |        |  |
| 20                                           | 16th. | Value of all grain, tobacco, &c.....                                 |     |        |  |
| 21                                           | 17th. | Value of all ships, barges, boats, &c.....                           |     |        |  |
| 22                                           | 18th. | Value of all fire-arms, knives, &c.....                              |     |        |  |
| 23                                           |       | Value of all other personal property not specifically enumerated.... |     |        |  |



## PERSONS, PROPERTY, AND OTHER SUBJECTS

Ascertained for Taxes and Levies in the County of

... within

District,

—, Commissioner of the Revenue,

JAMES E. GOODE, Printer, 824 Main street, Richmond.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY:

NAME OF THE DISTRICT:

No. OF THE DISTRICT:

NAME OF THE COMMISSIONER:

SCHEDULE B.—Taxed at Forty Cents on the One Hundred Dollars' Value.

[illegible]



"Morgan No. 1."

Fill all the blanks on this page and add up each column.

| SCHEDULE C.—Taxed at Forty Cents on the One Hundred Dollars' Value.                                                           |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 | SCHEDULE D.—Income.                                                                                                                                               |                                                                                                                                                                          | TOTAL TAX.                                                                                                                                                                                     | PUBLIC FREE SCHOOL PURPOSES.        |                                                       |                                                         | COUNTY PURPOSES.                                         | PROOF.                                    |      |            |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------|-------------------------------------------|------|------------|
| 25                                                                                                                            | 26                                                                               | 27                                                                                                                                                                                                                          | 28                                                                                                              | 29                                                            | 30                                                                        | 31                                                                                                                                                                                                  | 32                                                                                                                                                      | 33                                                 | 34                                                                                                                     | 35                                                                                                                            | 36                                                | 37                                              | 38                                                                                                                                                                | 39                                                                                                                                                                       | 40                                                                                                                                                                                             |                                     |                                                       |                                                         |                                                          | No.                                       | Tax. | Total Tax. |
| Tax on aggregate value of personal property enumerated in Schedule B, taxed at forty cents on the one hundred dollars' value. | Value of all solvent bonds, demands, claims, notes, and other evidences of debt. | Value of capital, including moneys, credits, or other thing remaining invested, whether said investment was made originally in this or any other state or country, loaned, used, or employed in business out of this state. | Value of all capital of incorporated joint stock companies, building or loan associations, not otherwise taxed. | Capital invested, used, or employed in any trade or business. | All money on deposit with any bank or other corporation, firm, or person. | All money, and the value of principal and interest, and personal estate and credits, deposited to the credit of any order, judgment, or decree of any court, as agent, guardian or other fiduciary. | The amount of any money, and the value of any personal estate or credits, deposited to the credit of any suit and not in the hands of a court receiver. | Value of all toll-bridges, turnpikes, and ferries. | Aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Tax on aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Total value of all property in Schedules B and C. | Total tax on all property in Schedules B and C. | Aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Tax on aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Total amount of state taxes on all subjects, viz: Persons in Schedule A, Personal Property in Schedule B, Personal Property in Choses in Action, &c., in Schedule C, and Income in Schedule D. | Name or No. of the School District. | Amount of tax levied for County free school purposes. | Amount of tax levied for District free school purposes. | Total levy for County and District free school purposes. | Amount of tax levied for County purposes. |      |            |
| 1                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 2                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 3                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 4                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 5                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 6                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 7                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 8                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 9                                                                                                                             |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 10                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 11                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |
| 12                                                                                                                            |                                                                                  |                                                                                                                                                                                                                             |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                     |                                                                                                                                                         |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                |                                     |                                                       |                                                         |                                                          |                                           |      |            |

|                                              |                                                                            |     |        |            |
|----------------------------------------------|----------------------------------------------------------------------------|-----|--------|------------|
| SCHEDULE A.                                  |                                                                            | No. | Tax.   | Total Tax. |
| 1                                            | 1st. White males over 21 yrs. of age, taxed at \$1.....                    |     |        |            |
| 2                                            | 2d. Colored males over 21 yrs. of age, taxed at \$1..                      |     |        |            |
| Total tax on all subjects in Schedule A..... |                                                                            |     |        |            |
| SCHEDULE B.                                  |                                                                            | No. | VALUE. |            |
| 3                                            | 1st. Horses, mules, asses and jennets .....                                |     |        |            |
| 4                                            | 2d. Cattle .....                                                           |     |        |            |
| 5                                            | 3d. { Sheep .....                                                          |     |        |            |
| 6                                            | Goats .....                                                                |     |        |            |
| 7                                            | 4th. Hogs .....                                                            |     |        |            |
| 8                                            | 5th. Pleasure carriages, &c....                                            |     |        |            |
| 9                                            | 6th. Books, pictures, &c.....                                              |     |        |            |
| 10                                           | 7th. Mechanics' tools.....                                                 |     |        |            |
| 11                                           | 8th. Farming implements, &c.                                               |     |        |            |
| 12                                           | 9th. Mineral productions.....                                              |     |        |            |
| 13                                           | 10th. Felled timber and bark...                                            |     |        |            |
| 14                                           | 11th. Watches.....                                                         |     |        |            |
| 15                                           | 12th. { Clocks .....                                                       |     |        |            |
| 16                                           | Sewing machines.....                                                       |     |        |            |
| 17                                           | 13th. Pianofortes, harps, &c....                                           |     |        |            |
| 18                                           | 14th. Household and kitchen furniture.....                                 |     |        |            |
| 19                                           | 15th. Value of gold and silver plate, &c.....                              |     |        |            |
| 20                                           | 16th. Value of all grain, tobacco, &c.....                                 |     |        |            |
| 21                                           | 17th. Value of all ships, barges, boats, &c.....                           |     |        |            |
| 22                                           | Value of all fire-arms, knives, &c.....                                    |     |        |            |
| 23                                           | 18th. Value of all other personal property not specifically enumerated.... |     |        |            |

Clerk 25th

"Morgan No 1"

Exhibit with B. M. Morgan's Sep-

Clerk 25<sup>th</sup>  
"Morgan No 1"  
Exhibit with  
B. M. Morgan's Dep-



**PERSONS, PROPERTY, AND OTHER SUBJECTS**

Ascertained for Taxes and Levies in the County of

, within

\_\_\_\_ District,

—, Commissioner of the Revenue,

JAMES E. GOODE, Printer, 824 Main street, Richmond.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY:

NAME OF THE DISTRICT:

No. OF THE DISTRICT:

NAME OF THE COMMISSIONER:

[illegible]



OF TAXATION FOR THE YEAR 1883,

"Morgan No. 2."

which were therein on the first day of February, or which were removed therein before the Commissioner's Books were delivered to the Officer charged with collection of Taxes.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY:

NAME OF THE DISTRICT:

No. OF THE DISTRICT:

NAME OF THE COMMISSIONER:

| SCHEDULE C.—Taxed at Forty Cents on the One Hundred Dollars' Value.                                                           |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   | SCHEDULE D.—Income.                                                                                                                                                      |                                                                                                                                                                                                          | TOTAL TAX.                          | PUBLIC FREE SCHOOL PURPOSES.                          |                                                         |                                                          | COUNTY PURPOSES.                          | PROOF.                                       |                                                                              |            |  |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------|-------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------|------------|--|
| 25                                                                                                                            | 26                                                                                    | 27                                                                                                                                                                                                                               | 28                                                                                                                   | 29                                                                 | 30                                                                             | 31                                                                                                                                                                                                                                               | 32                                                                                                                                                           | 33                                                      | 34                                                                                                                     | 35                                                                                                                            | 36                                                | 37                                              | 38                                                                                                                                                                | 39                                                                                                                                                                       | 40                                                                                                                                                                                                       | Name or No. of the School District. | Amount of tax levied for County free school purposes. | Amount of tax levied for District free school purposes. | Total levy for County and District free school purposes. | Amount of tax levied for County purposes. | SCHEDULE A.                                  |                                                                              |            |  |
| Tax on aggregate value of personal property enumerated in Schedule B, taxed at forty cents on the one hundred dollars' value. | 1<br>Value of all solvent bonds, demands, claims, notes, and other evidences of debt. | 2<br>Value of capital, including moneys, credits, or other thing remaining invested, whether said investment was made originally in this or any other state or country, loaned, used, or employed in business out of this state. | 3<br>Value of all capital of incorporated joint stock companies, building or loan associations, not otherwise taxed. | 4<br>Capital invested, used, or employed in any trade or business. | 5<br>All money on deposit with any bank or other corporation, firm, or person. | 6<br>All money and the value of principal and interest, and personal estate and credits under his control as court receiver or commissioner, in pursuance of any order, judgment, or decree of any court, as agent, guardian or other fiduciary. | 7<br>The amount of any money, and the value of any personal estate or credits, deposited to the credit of any suit and not in the hands of a court receiver. | 8<br>Value of all toll-bridges, turnpikes, and ferries. | Aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Tax on aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Total value of all property in Schedules B and C. | Total tax on all property in Schedules B and C. | Aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Tax on aggregate amount of income in excess of \$600 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Total amount of state taxes on all subjects, viz: Personal Property in Schedule A, Personal Property in Schedule B, Personal Property in Choses in Action, &c., in Schedule C, and Income in Schedule D. |                                     |                                                       |                                                         |                                                          |                                           | No.                                          | Tax.                                                                         | Total Tax. |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | SCHEDULE B.                                  |                                                                              |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | No.                                          | VALUE.                                                                       |            |  |
| 1                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 1                                            | 1st. White males over 21 yrs. of age, taxed at \$1.....                      |            |  |
| 2                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 2                                            | 2d. Colored males over 21 yrs. of age, taxed at \$1.....                     |            |  |
| 3                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | Total tax on all subjects in Schedule A..... |                                                                              |            |  |
| 4                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | SCHEDULE B.                                  |                                                                              |            |  |
| 5                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 3                                            | 1st. Horses, mules, asses and jennets .....                                  |            |  |
| 6                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 4                                            | 2d. Cattle .....                                                             |            |  |
| 7                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 5                                            | 3d. { Sheep .....                                                            |            |  |
| 8                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 6                                            | { Goats .....                                                                |            |  |
| 9                                                                                                                             |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 7                                            | 4th. Hogs .....                                                              |            |  |
| 10                                                                                                                            |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 8                                            | 5th. Pleasure carriages, &c....                                              |            |  |
| 11                                                                                                                            |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 9                                            | 6th. Books, pictures, &c.....                                                |            |  |
| 12                                                                                                                            |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 10                                           | 7th. Mechanics' tools.....                                                   |            |  |
| 13                                                                                                                            |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 11                                           | 8th. Farming implements, &c....                                              |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 12                                           | 9th. Mineral productions.....                                                |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 13                                           | 10th. Felled timber and bark...                                              |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 14                                           | 11th. Watches .....                                                          |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 15                                           | 12th. { Clocks .....                                                         |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 16                                           | { Sewing machines.....                                                       |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 17                                           | 13th. Pianofortes, harps, &c....                                             |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 18                                           | 14th. Household and kitchen furniture.....                                   |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 19                                           | 15th. Value of gold and silver plate, &c.....                                |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 20                                           | 16th. Value of all grain, tobacco, &c.....                                   |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 21                                           | 17th. Value of all ships, barges, boats, &c.....                             |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 22                                           | { Value of all fire-arms, knives, &c.....                                    |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 23                                           | 18th. { Value of all other personal property not specifically enumerated.... |            |  |
|                                                                                                                               |                                                                                       |                                                                                                                                                                                                                                  |                                                                                                                      |                                                                    |                                                                                |                                                                                                                                                                                                                                                  |                                                                                                                                                              |                                                         |                                                                                                                        |                                                                                                                               |                                                   |                                                 |                                                                                                                                                                   |                                                                                                                                                                          |                                                                                                                                                                                                          |                                     |                                                       |                                                         |                                                          |                                           | 24                                           | Total value of all subjects in Schedule B.                                   |            |  |

Clerk L. S. F.  
"Morgan No 2"  
Exhibit with  
B. M. Morgan's sep.

Clerk 25¢  
"Morgan No 2"  
Exhibit with  
B. M. Morgan's Sep.



5

PERSONS, PROPERTY, AND OTHER SUBJECTS

Lee

E. S. Larmer

Commissioner of the Revenue,

Ascertained for Taxes and Levies in the County of

, within

District,

Fill all the blanks on this page and add up each column.

JAMES E. GOODE, Printer, 824 Main street, Richmond.

NAME OF THE COUNTY:

NAME OF THE DISTRICT:

No. OF THE DISTRICT:

NAME OF THE COMMISSIONER:

SCHEDULE A.

1 2

White Males and Colored Males ascertained for State taxes.

No. of white male inhabitants who have attained the age of 21 years, taxed at one dollar.  
No. of colored male inhabitants who have attained the age of 21 years, taxed at one dollar.

RESIDENCE OF EACH TAXPAYER.

NAMES OF PERSONS CHARGED WITH TAXES.

3 4 5 6

Horses, mules, asses, and jennets, with their number and value.

CATTLE.

SHEEP.

GOATS.

HOGS.

No. Value.

No. Value.

No. Value.

No. Value.

No. Value.

5 225

7 100

4 4

15 25

1 30

SCHEDULE B.—Taxed at Forty Cents on the One Hundred Dollars' Value.

7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

Mechanics' Tools.

The aggregate value of all farming implements, and the aggregate value of all pound-nets and seines intended or used in catching or taking fish.

Mineral productions.

Felled timber, cord wood, hoop poles, staves, and bark which has been felled for sale by other than the owner of the land upon which it has been felled.

WATCHES.

CLOCKS.

SEWING MACHINES.

Pianofortes, melodeons, harps, organs, and musical instruments of all kinds.

The aggregate value of all household and kitchen furniture.

Value of all gold and silver plate, plated ware, and jewelry.

The aggregate value of all grain, tobacco, and other agricultural productions in the hands of the owner, or possession, legal or constructive, of a purchaser.

The aggregate value of all ships, barges, boats, or other water craft, with their tackle, rigging, furniture, and all else that pertains to them.

The aggregate value of all shot guns, rifles, muskets, and other firearms, bowie-knives, dirks, and all weapons of a similar kind.

The marketable value of all other personal property not specifically enumerated in this or other schedules.

Aggregate value of personal property enumerated in Schedule B, taxed at forty cents on the one hundred dollars' value.

15 Ely Sarah L.

D. B.

2 3 4 5 6 7 8 9 10 11 12

4

500

1 2 1 20

100



OF TAXATION FOR THE YEAR 1883,

which were therein on the first day of February, or which were removed therein before the Commissioner's Books were delivered to the Officer charged with collection of Taxes.

Fill all the blanks on this page and add up each column.

NAME OF THE COUNTY: Lee

NAME OF THE DISTRICT: Rocky Station

No. OF THE DISTRICT: 3rd

NAME OF THE COMMISSIONER: E. S. Larmer

| SCHEDULE C.—Taxed at Forty Cents on the One Hundred Dollars' Value.                                                                                                                                                                                                                                                                                  |                                                                                  |                                                                                                                                                                                                                            |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                                     |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 | SCHEDULE D.—Income.                                                                                                                                               |                                                                                                                                                                          | TOTAL TAX.                                                                                                                                                                                     | PUBLIC FREE SCHOOL PURPOSES.        |                                                       |                                                         | COUNTY PURPOSES.                                         | PROOF.                                    |     |      |            |  |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------|-------------------------------------------|-----|------|------------|--|
| 25                                                                                                                                                                                                                                                                                                                                                   | 26                                                                               | 27                                                                                                                                                                                                                         | 28                                                                                                              | 29                                                            | 30                                                                        | 31                                                                                                                                                                                                                                       | 32                                                                                                                                                  | 33                                                 | 34                                                                                                                     | 35                                                                                                                            | 36                                                | 37                                              | 38                                                                                                                                                                | 39                                                                                                                                                                       | 40                                                                                                                                                                                             |                                     |                                                       |                                                         |                                                          |                                           | No. | Tax. | TOTAL TAX. |  |
| Tax on aggregate value of personal property enumerated in Schedule B, taxed at forty cents on the one hundred dollars' value.                                                                                                                                                                                                                        | Value of all solvent bonds, demands, claims, notes, and other evidences of debt. | Value of capital, including moneys, credits, or other thing remaining invested whether said investment was made originally in this or any other state or country, loaned, used, or employed in business out of this state. | Value of all capital of incorporated joint stock companies, building or loan associations, not otherwise taxed. | Capital invested, used, or employed in any trade or business. | All money on deposit with any bank or other corporation, firm, or person. | All money, and the value of principal and interest, and personal estate and credits under his control as court receiver or commissioner, pursuant to any order, judgment, or decree of any court, as agent, guardian or other fiduciary. | The amount of any money, and the value of personal estate or credits, deposited to the credit of any suit and not in the hands of a court receiver. | Value of all toll-bridges, turnpikes, and ferries. | Aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Tax on aggregate value of personal property enumerated in Schedule C, taxed at forty cents on the one hundred dollars' value. | Total value of all property in Schedules B and C. | Total tax on all property in Schedules B and C. | Aggregate amount of income in excess of \$500 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Tax on aggregate amount of income in excess of \$500 received or due, though not received within the year next preceding the first of February, taxed at one per centum. | Total amount of state taxes on all subjects, viz: Persons in Schedule A, Personal Property in Schedule B, Personal Property in Choses in Action, &c., in Schedule C, and Income in Schedule D. | Name or No. of the School District. | Amount of tax levied for County free school purposes. | Amount of tax levied for District free school purposes. | Total levy for County and District free school purposes. | Amount of tax levied for County purposes. |     |      |            |  |
| 2 12                                                                                                                                                                                                                                                                                                                                                 | 4910                                                                             |                                                                                                                                                                                                                            |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                                     |                                                    | 4910                                                                                                                   | 19 64                                                                                                                         | 5440                                              | 21 76                                           |                                                                                                                                                                   |                                                                                                                                                                          | 21 76                                                                                                                                                                                          |                                     | 5 44                                                  | 5 44                                                    | 10 88                                                    | 13 60                                     |     |      |            |  |
| Virginia Lee County, to-wit:<br>I, B. M. Morgan, Clerk of the County Court for said County, do certify that the foregoing is a true transcript from the Personal Property Book for the year 1883, page 5-line 15, Third Commissioner's District as the same appears on said book in my office. Given under my hand this 11th day of September, 1904. |                                                                                  |                                                                                                                                                                                                                            |                                                                                                                 |                                                               |                                                                           |                                                                                                                                                                                                                                          |                                                                                                                                                     |                                                    |                                                                                                                        |                                                                                                                               |                                                   |                                                 | B. M. Morgan                                                                                                                                                      |                                                                                                                                                                          |                                                                                                                                                                                                | Clerk                               |                                                       |                                                         |                                                          |                                           |     |      |            |  |

Virginia Lee county, to-wit:  
I, B. M. Morgan, Clerk of the county court for said county do certify that the foregoing is a true transcript from the Personal Property Book for the year 1883, page 5-line 15, Third Commissioner's District as the same appears on said book in my office. Given under my hand this 11th day of September, 1900.  
B. M. Morgan Clerk



Ely & Smith Advers

vs

} In Chancery.

Elizabeth Pennington et als

It is insisted for the Ely heirs; that the decree of the Court is that the Pennington heirs (Mrs Ely's) are entitled to the increment to the estate of Joseph N. Ely after his death, provided the same can be ascertained. and that it devolves upon them to furnish, before the Commissioner, proof of what it is by legitimate evidence. Have they done that?

As to the first enquiry to be made by the Court in regard to the real estate there is no difficulty about that, that has been agreed.

As to the second enquiry, as to what personal property Mr Ely left at the time of his death, its kind, nature & value, the Pennington heirs undertake to prove what property he had & its value by the Commissioner of the Revenue Book for 1882. This evidence is objected to as inadmissible. It is not legitimate evidence to prove the value of the property. It may be admissible to prove that he had the property listed for taxation & that the taxes charged were assessed on that.



Valuation. See Greenleaf Vol 1. p. 590 & 493

But it is not admissable under this decree to prove the value of the property owned by him at the time of his death, or what property he owned at that time, Decr 11<sup>th</sup> 1882. This is so for the best of reasons. It is proven by E. G. Parsons that there is a great difference between the assessed value of personal property for taxation and its true value, and it is a matter of common notoriety or of which we all have knowledge that this is true, Hence the impropriety of the admission of such evidence. See L. R. Annotated Vol 5 - 523-4. Which is a case very similar to the one under consideration, and decided by the West Va Court of Appeals.

The assessment here relied on was made as of Feb 1<sup>st</sup> 1882, & Ely died Decr 11<sup>th</sup> 1882. There is no other evidence as to what property Mr Ely had at the time of his death or its value, except the statements of some witnesses as to some articles and their value, but there is nothing sufficiently definite and certain as to what was there at his death and what was there at her death and its value, or which to have a <sup>report or</sup> decree, Mrs Graham & Mr Ely say the household &



kitchen furniture was about the same.  
Kirkman Ely <sup>father's</sup> names that the horses & cattle  
were worth much more than what  
they were assessed at, but this only  
shows the impropriety of admitting the  
assessors Books, and gives nothing  
definite on which to base a decree.

As to the increase &c to be enquired into  
under the 3rd Clause of the decree.

The Pennington heirs have utterly failed to  
show by legitimate evidence what the  
increase was, if any; and if we take the  
entire evidence there is nothing sufficient-  
ly definite on which can be based a decree  
or report. Can any one take the evidence  
in this case and ascertain and say that  
there is an increase of so many dollars.

Parsons says that in calculating Mrs Ely's notes  
he does not remember to have observed  
any losses, though there might have  
been. Thinks there were gains, & some  
years more than others. Does this relieve  
the situation of uncertainty? Who knows  
or who has proved, that the notes of  
Mrs Ely's, calculated by Mr Parsons, were  
all derived by her from Jos & Ely's Est.  
Who knows but what she may have de-  
rived some estate or property from some  
other source, that became a part of those



See 3d Minor  
Vol 1 - 4731  
Vol 6 - 2nd Ed  
A. & C. C. of Law  
page.

notes. It was her duty, if she expected to enjoy the increase, to so keep the estate that the increase could be ascertained, and if she so mixed and mingled the property that it is impossible for her heirs to ascertain and show the increase, it is their misfortune, and under the decree of the Court the increment is not ascertainable. The copies of the appraisement & sale bill of Sarah Ely are not legitimate evidence for the purpose for which they were introduced, In a suit against a personal representative for an account of his administration an appraisement is prima facie evidence that the property appraised went into his hands and of its value. But this is not that kind of case. And the sale bill is not evidence of the cash value of her property. The sale was on time, and it is well known that there is considerable difference between what property will bring at a sale for cash, and when sold on time, and who can tell the difference, at a guess, in dollars and cents, Can you Mr Court? Can any one? These people, perhaps, could have proved the actual cash value of every article or piece of property of Mrs Ely's sold at the sale.







Ely & Smith Adams  
vs } Brief  
Elizabeth Pennington vs

---

For Court & Court



J.Morrison Smyth et al Admrs &c.

vs.

America Graham et als.

This suit was instituted by the administrators of Sarah S.Ely, deceased for the purpose of construing the last will and testament of her deceased husband, Joseph N.Ely.

Joseph N.Ely, the testator, and Sarah S.Pennington, the plaintiffs' decedent were married in the year 1834. Said testator died in the year 1882 leaving his wife surviving him. The said Sarah S.Ely, the surviving wife died in the year 1900. They were childless and they were each possessed, at the time of their respective deaths, of considerable property, and it is claimed by the plaintiffs in their bill that a construction of the will of the said Joseph N.Ely is necessary to a full and correct distribution of the property left by said decedent.

It will be observed the the will here sought to be construed was made on the 20th day of January 1863, nearly twenty years before the death of the testator, and thirty-seven years before the death of his widow.

It is sought to aid the Court in construction of said will by oral testimony. This testimony, as we regard it, is not admissible for the purpose, and if admissible the testimony introduced by the plaintiffs has no bearing at all upon the issue because it is not explanatory of the intention of the testator, its tendency being, if it has any weight at all, to prove a subsequent intent of the decedent Sarah S.Ely, or at most, her construction of the will of her deceased husband.

Now at the outset of this discussion, we admit that in the construction of wills, the intention of the testator, when ascertained, is the great "Polar star" which is to guide the Court in coming to its conclusion, but the intention which thus guides the court is, and must be, the intention expressed by the will itself, not the supposed intention of the testator. This intention must be gathered and ascertained from the words actually used by the testator, and such meaning must be given to these words as they reasonably bear, as used in the instrument.



Judge Richardson in speaking for the Court in Stokes et al Vs. Van Wick et al, 83 Va. 734, says "In interpreting wills the intention of the testator must be sought and followed, and that intention must be looked for in the will itself, and the true inquiry is not what the testator meant to express, but what the words used by him do express. To the same effect is the law as laid down by the text writers. See 1 Greenleaf's Evi. sec. 277 &c 289 &c.

The bill in this case intimates or states three probable contentions of the true construction of said will. It is doubtless true that among the persons interested, or who claim to be interested, in said estate, that each of the probable contentions mentioned in said bill, will have its advocates, and as matter of convenience we will take up these contentions in their inverse order.

The third probable contention is set out in the plaintiffs bill in these words: "That said will in law gives absolutely and in fee simple all the estate both real and personal to the said Sarah S. Ely, and she having died intestate, the same under the statute of descents will pass and should be dispursed among said American Graham, one share, to said John H. Pennington, Sarah E. Myers, Cynthia Myers and Mary P. Ely, children of said Tobias S. Pennington another share, and to be equally divided among them, and another share to said Thomas Garrison and Daniel G. Simpson to be equally divided between them, and a one-half share to said Children of said Amanda Reasor to be equally divided among them; and said descendants of said ten brothers and sisters of said Joseph N. Ely take nothing". The correctness of this contention depends upon whether or not Sarah S. <sup>Ely</sup>~~Pennington~~ took a fee-simple in the estate devised by her husband or only a life estate therein, and this depends upon whether or not the devise and bequest to the said Sarah S. Ely is coupled with an unrestrained power in her to use, consume or dispose of said property. The law is well settled both by courts and text writers "that an estate for life, coupled with the absolute power of alienation, either expressed or implied, comprehends everything, and the devisee takes the fee. So firmly fixed is this principle of law, that it may now be regarded as a canon of property". 91 Va. 433-4.



The devise and bequest to be construed is in this language: "And in the third place I desire and will all the remainder of what I am possessed at my decease both real and personal to Sarah S. Ely my wife I desire that she shall have the sole use and control of it so long as she may live, and after her decease and after all her just debts and funeral expenses are paid I then desire one-third of all my estate at that time both real and personal to be equally divided between my wives brothers and sisters if living &c - - - I desire and will the other two-thirds of my estate both real and personal to be equally divided between my brothers and sisters if living &c." Now we contend that this language cannot be reasonably construed otherwise than that the devisee, Sarah S. Ely, under it has not only the power to use said property, but to dispose of it, or consume it if she so desires. She had the power to charge <sup>it</sup> with debts, and no limitation is imposed upon her as to the amount of debt with which she could encumber it nor as to the nature or character of such encumbrance. It might be by mortgage, it might be by deed of trust or even by absolute sale. All the limitation imposed is, that it should be "her just debts". This implies an absolute power of disposition, consumption and alienation. If this were all it would seem to us to leave no doubt that the testator intended to give to his wife with whom he had lived for so many years the unlimited power, not only to use said property, but to consume it, should she so desire, her happiness and her pleasure being <sup>his</sup> ~~is~~ sole desire. But this is not all the language used. A few more words are added as if to give emphasis to the foregoing. After thus providing for the payment of her debts and funeral expenses the testator then continued: "I then desire one-third of all my estate at that time both real and personal be equally divided &c." Now what time is referred to? It is the death of his wife. The language used is: "And after her decease, and after all her just debts and funeral expenses are paid I then desire one-third of all my estate at that time &c.". Now what estate is meant? We are not left in doubt. The testator tells us; "all my estate at that time both real and personal". At what time? After the death of his wife and after the payment of all her just debts and funeral expenses. Then it is what estate that may remain after these things have



happened. This implies, not only a power of consumption in life, but it expressly declares a power of consumption <sup>after death</sup> by the payment of debts incurred during life, if required for the purpose of paying said debts and funeral expenses. What remains or might remain at her death and after her debts and funeral expenses were paid was all that was to go over. The language forcibly implies an unlimited and unqualified power of disposition. Sarah S. Ely, the devisee, could acquire no greater estate, nor exercise no greater power over it. To put any restriction upon her absolute dominion over said property would be to say, that the whole or a certain part of it should go over to the remaindermen or second takers, when the will expressly says that only all of my estate at that time, shall go over. That is, such as has not been used or consumed. Mr. Minor says " although a devise be expressly for the life of the devisee, yet if the devisee be by other clauses of the will, permitted to use or dispose of the subject absolutely at his pleasure, or if so much as may remain undisposed of at his death (which implies a power of unqualified disposition), be given over at his decease, the devisee is construed by necessary implication of the testator's intention, to take a fee-simple

See 2 Minor 969-70 and cases cited.

In Cole vs. Cole et als. 79 Va. 351, the Court says, "In the construction of wills it is a well settled rule of law that an absolute power of disposal by the first taker renders a subsequent limitation repugnant and void. And the same rule applies whether the property devised be real or personal." That case was very much like this in all its particulars, not only as to the language used in the devising and bequeathing clause, but as to the facts surrounding the parties at the date of the will, and at the death of the testator. Cole and his wife were childless, they had lived together as husband and wife for nearly forty years. Joseph N. Ely and his wife were childless, they had lived happily together as husband and wife for nearly fifty years, in this respect the two cases are parallel with each other. The evidence shows or tends to show that fully one half, if not more, of the property owned by Joseph Ely and his wife came by her, it further shows that she was indus-



trious, frugal and saving, and it is fair to say that she contributed her full share in the accumulation of the property owned by the two at the time of her husband's death. Not only does this similarity exist in the condition and circumstances surrounding the parties, but the language used in the two wills are very similar. In the Cole case the language was "I give to my wife Martha A.E. Cole all of my personal and real estate during her life time and at her death, half of the real estate and half of the personal property that may be on hands to do with as she may see proper, and the other half of my real and personal property to go to the heirs of my brother Sampson Cole". The language used in this will is "I desire and will all the remainder of what I am possessed at my decease both real and personal to Sarah S. Ely, my wife I desire that she shall have the sole use and control of it so long as she may live and after her decease and after all her just debts and funeral expenses~~are~~ are paid I then desire one-third of all my estate at that time both real and personal to be equally divided &c. In the case of Cole v. Cole the court said " The language employed is as if the testator had said, I give to my wife all my estate, and at her death one-half of the real estate and one half of the personalty that may then be on hand to go to the heirs of Sampson Cole. And the Court further said " the words 'that may be on hand' fairly construed impliedly give to the wife the absolute disposal of the personalty at least. And we may say with equal propriety that the words "all of my estate at that time both real and personal" implies all of the estate that may then be left, in other words that the testator gave to his wife the use and consumption of said property thus impliedly giving to her the absolute disposal of it. He expected her to use the property for her comforts and enjoyment, and his intention was to vest in her the right to use so much of it as was necessary even to the consumption of the whole of it. His first and principal object was to provide for his wife. This is manifested by the devise to her of his whole estate, and under the circumstances surrounding these two old people to have left her the use of only a part of the estate and to have



imposed upon her in her old age the care and responsibility of a trustee for the descendants of his brothers and sisters would not have been just and certainly it would have been anything else but generous, and it is evident from the language used by him that to her he intended to be both. We have <sup>h</sup>us freely used the Cole case because of the almost exact similarity in all respects of that case to this.

If we are mistaken in the conclusion that this construction of the will is ~~xxx~~ the true one, then we insist most vehemently that the second contention mentioned in the plaintiffs' bill is the true one. This contention, ~~even~~ taking the view that the language of the will creates only a life estate in the decedent Sarah S. Ely, is the only fair one that can be reached. It is the only just one that the language of the will, will admit. Certainly the testator never intended and cannot be held to have intended to make a trustee, a servant or a financial manager out of his devoted wife for the benefit of his brothers and sisters, nor will the language used by him, giving to it the most favorable construction to the interest of his brothers and sisters or their descendants, admit of ~~such~~ a conclusion. All will admit that he gave her a life estate in all his property both real and personal. This carried with it by necessity the use ~~usufruct~~ of said property, everything that grew out of it or arose from it, not only the rents and profits of the real estate but likewise the interest on the notes and bonds and the yearly increase of the ~~personality~~ of whatever kind. It is a well settled, that in any kind of conveyance whether for life or for a term of years, ~~that~~ such property as is consumed by use or in the using thereof, an absolute estate passes, it matters not what the words used may be. Now let's reason together for a moment. Did not, under this will, even conceding that a life estate was all that was intended, Sarah S. Ely take absolutely the right to the rents and profits of all the real estate owned by the testator at the time of his death? Did she not have the right to consume these rents, to sell them and convert them into money, and to use that money as she saw proper? All will readily admit that she had, that right, that these rents belonged absolutely to ~~her~~. Does not the same rule and the same reasoning apply



with equal force to the notes, bonds and other personal property on hands, if not why did he convey it to her, what was the use of giving her this personal property and this real estate for her life if she could not use and convert to her use in any way she saw proper the interest on the bonds, or the rents of the real estate. To enable her to thus use said rents and profits, the interest on said bonds and the increase of the personal property, implies an absolute estate. If the will only made her a trustee, she had no more right to use the increase of the property, the rents of the realty, the interest on the bonds notes and other evidences of debt, than she would, to have used the corpus of said property. The idea that all the increase of that property belongs to the estate of Joseph N. Ely is destructive of every incident of a life estate. It destroys the very idea of the creation of a life estate. To take from a person what results or comes <sup>from</sup> into the life estate, takes away every benefit that arises from such an estate, and in place of generosity being bestowed a burden is imposed.

" Every tenant for life has a right to the full enjoyment of the land and all of its annual profits during the continuance of his estate

See 1 Lomax Digest page 32 & 43

1 Tucker com. Book 2, page 50

The same rule, only in a broader sense, applies to life estates in personal property. Then it follows conclusively that all the increase of the personal estate which Sarah S. Ely received from her husband, even admitting, which we do not do, that she only got a life estate in said personalty, belonged absolutely to her, and belonging to her it descends to her heirs, free from any claim or right in his heirs.

For the year 1882, the year that Joseph Ely died, his personal property was assessed at \$4848.00. For the year 1899, the last year in which Sarah S. Ely was assessed before her death, her personal property was assessed at \$8985.00, to which might properly be added \$325.00 the price she paid for the eleven acres of land purchased from John P. Hughes and wife, thus showing that the personal property as ascertained by its assessed value in each case, had increased, or in other words that she had made \$4962.00. This assessed value in each instance is very nearly the actual value, as it consisted mostly of money, notes



and bonds which are always assessed at their actual value, the evidence showing that of the personal property assessed to Joseph Ely for the year 1882, \$4251.00 was for notes and bonds and only \$597 for other personal property, while the bill alleges that the full valuation of the personal property of Sarah S. Ely, including notes, bonds choses in action &c. is \$10253.17 as ascertained by her administrators. It thus appears that fully one-half of the personal estate has been made by Sarah S. Ely by her industry, energy and frugality since the death of her husband.

In our view of this case there is no possible way in which the first contention mentioned by the plaintiffs in their bill can have a place. It <sup>is</sup> too strongly contradictory of the terms of the will itself, it is too strongly opposed to common sense, reason and fair dealing to even have a serious advocate unless that advocate ~~was~~ prejudiced by his interest. Joseph N. Ely loved his wife too well, she had been too long the partner of his joys and his sorrows for him to have imposed upon her the duty, the responsibility, the hardship and slavery of a trustee for the benefit of the descendant of his brothers and sisters.

C. T. Duneau

J. C. Kell

For the defendants for  
whom they filed answer



Johu 3 Ely see

to 3 Brief of

to Duerr

to Hare Alty

to Grohman see

E. Pennington see -



John Z.Ely & J.M.Smyth Admrs. etc.

Vs.

Elizabeth J.Pennington et als.

The decree in this case directs Commissioner Goins to ascertain what real estate was owned by Joseph N.Ely at the time of his death, its nature and location and whether or not it all remains in kind, and if not, the value of such as has been disposed of as of the date of its disposal; of what personal property the said Ely died possessed of all kinds and descriptions, its nature and value as of the time of the death of the said Ely; the increment, if any, to the estate so left by the said Joseph N.Ely in the hands of his wife Sarah S.Ely, stated as of the time of her death and the nature thereof.

The enquiries in this case are few and simple. The Deed Books furnish evidence of the real estate owned by the said Ely at the time of his death, and the reference to them is all that is necessary on the first enquiry.

There is no evidence that the said Joseph N.Ely owned any personal property at the time of his death, except the evidence furnished by the defendants, heirs of Sarah S.Ely deceased. This evidence shows that Joseph N.Ely shortly before his death owned four horses of the value of \$250.00, eight cattle of the value of \$135.00, six sheep of the value of \$6.00, 19 hogs of the value of \$30.00, one wagon of the value of \$35.00, farming utensils of the value of \$25.00, one clock of the value of \$2.00, sewing machine of the value of \$20.00, household and kitchen furniture of the value of \$100.00, one gun of the value of \$4.00, making a total of \$597.00; solvent bonds, claims and evidences of debt of the value of \$4251.00, or a grand total of personal property of \$4848.00. The next year after the death of the said Joseph N.Ely, Sarah S.Ely is charged with personal property aggregating \$530.00, solvent notes, bonds &c \$4910.00 making a grand total of \$5440.00. Without this evidence adduced by said defendants, the Pennington heirs there would be no evidence to show that Joseph N.Ely owned any personal property at the time of his death.

The third and last enquiry which the Commissioner is directed



to make, is to ascertain the ~~interest~~ increment to the estate left by Joseph N. Ely in the hands of his wife Sarah S. Ely, stated as of the time of her death, and the nature thereof. This a matter very easy of ascertainment. The sale bill of the personal property of Sarah S. Ely, together with the notes, accounts and evidences of debt regarded as solvent amounts to \$10,252.17. Deduct from this amount the value of the personal property belonging to the estate of Joseph N. Ely at the time of his death as shown by the testimony of said defendants above referred to, gives you the increase of said estate which the Court by its decree has determined to belong to the heirs of the said Sarah S. Ely deceased.

XXX

All the property in the possession of Sarah S. Ely, in the absence of proof to the contrary, is presumed, in law, to be hers. This presumption rests upon the well known principle of law, "That possession of personal property is the highest evidence of the ownership thereof".

The heirs of Sarah S. Ely might rest here and be content, knowing that until the Ely heirs had proven what property belonged to Joseph N. Ely at the time of his death, all property in the possession of Sarah S. Ely, at the time of her death, of a personal nature, must be held to belong to her estate. But they have not chosen to do so. They have chosen rather to aid the commissioner all they could in determining the second enquiry which the court directs to him. For this purpose they introduced the books of the Commissioner of the Revenue for Lee County for the last year of the life of Joseph N. Ely, deceased and for the first year in which the said Sarah S. Ely was assessed with taxes. The question now arises, were and are these books competent evidence. If not, why not? Section 3334 Code of Virginia makes a copy of any record or paper in the Clerk's Office or the Office of the Secretary of the Commonwealth &c. evidence in lieu of the original. Would the originals in this case be evidence? To determine this it is only necessary to enquire whether or not they are pertinent to the issue. See 1 Greenleaf Evidence, §§. 491 - 493; 4 Min. Inst. Pt. 1 page 725. What is the enquiry? What personal property was owned by Joseph N. Ely



at the time of his death and the value thereof. The law requires, and required in 1882, that all personal property, not exempt from taxation and all subjects of taxation, should be ascertained by the Commissioner of the Revenue of the several Districts of the County, and in order to do this, it was and is made the duty of the Commissioner of the Revenue to call upon every person in his County, District &c. to furnish a list of such property, money, credits or other subjects of taxation as required by law and the value thereof. This information was and is required to be furnished under oath, See Sec. 491, C.V. 1887. Then it was the duty of Joseph N. Ely in the year 1882 to furnish to the Commissioner of the Revenue a correct list of all the personal property owned by him subject to taxation together with the true value thereof. The law presumes that he performed his duty in this respect correctly, that he furnished to the Commissioner of the Revenue a list of his personal property together with the true value thereof. Certainly this list thus made by him is the prima facie amount and value of the property owned by him and must stand as the value until it shown to be incorrect.

Now as to the \$300.00 fixed by the Commissioners as due compensation for the land taken by the Louisville & Nashville Railroad Co. for its purposes, the rights and ownership of the same has been determined by a court of competent jurisdiction. After said compensation had been fixed by the Commissioners appointed for that purpose, the Court appointed a commissioner to ascertain who was entitled to said money. Said commissioner made his report after having given the notice required by law. After quoting in his report the terms of the will of Joseph N. Ely applicable to the enquiry required to be made by him, he proceeds to say, "Now with these facts before your commissioner he is of opinion that the terms expressed in said will are so sole and absolute as to be construed as an absolute title in Sarah S. Ely to said land during her life for any and all purposes for which she should use them and therefore determines that Sarah S. Ely is alone entitled to said damages of \$300.00." This report of said Commissioner was approved and confirmed by the County Court of this County on the 9th day of April



1890. It follows then that the ownership of this money has been determined by a Court of Competent jurisdiction and whether correctly or incorrectly determined is not now a matter of enquiry in a collateral proceeding. The only way to get rid of that judgment is by appeal.

Very Respectfully Submitted.

*C. T. Duncan.*  
*J. C. Aul*  
*Atty.*



Eoly & Luythe Adm  
ms by Bruf of Punington  
Luis.  
Lorah J Punington itals

Before Court



J. Morrison Smyth and J.Z. Ely Admrs. &c

Vs.

Elizabeth Pennington et als.

The defendants, the heirs of Sarah S. Ely deceased excepts to much of the report of A.M. Goins Special Commissioner in said cause as charges the said Sarah S. Ely with \$300.00 the amount of money paid to her by the Louisville & Nashville Railroad Company, because the ownership of said money has been heretofore determined by a Court of competent jurisdiction upon proceedings regularly had, to be the property of the said Sarah S. Ely, and that no appeal has been taken from the same.

Second; because said commissioner has left out of his calculation the interest on the various notes bonds and other evidences of debt held by Sarah S. Ely at the time of her death, all of which said interest belongs to her estate.

*B. F. Duncan & J. C. Noel*

*And said report No 2, to statement No 2. is accepted to wit to to as there is no other evidence or law to sustain the same.*

*Duncan & Noel  
for D & E to the  
Pennington heirs*

*And said report is further accepted to be a answer. The same. does not give Sarah & Ely credit for, The William Pennington note which is shown to be a note of Jas & Ely. shall*

*Duncan & Noel for  
D & E.*



J.M.Smyth & J.Z.Ely, Admr. &c.

Vs. } Exceptions to Comr's. r  
Report.

Elizabeth Pennington et al.



Lee Circuit Court

John Z. Ely and John M. Smythe, Admrs.

Vs. EXCEPTIONS TO COMMISSIONER'S REPORT:

Elizabeth J. Pennington, et al.

The undersigned except to report filed herein by A. M. Goins, Commr., on October 3rd, 1900, for the following reasons

First: Because said commissioner accepts as prime facie evidence of the amount of personal property of which Jos. N. Ely died possessed the books of the commissioner of the revenue for the year 1883. The said books on this point are not even prime facie evidence of the value of such property, and are not admissible for any purpose in this investigation. (5 L.R.A. 525).

Second: Because said commissioner after ascertaining the total estate of the said Jos. N. Ely as \$5,967, which is approximately the same as the assessed value thereof for the year 1883, deducts this from the sale <sup>on time</sup> of \$10,252 and gives the difference \$4,285 as the increment to the estate of Sarah S. Ely. The evidence is not sufficient upon which to base any report as to the value of the property left by Jos. N. Ely, and the commissioner should so have reported, and should have reported, therefore, that it is not possible to ascertain what increment, if any, belongs to the estate of Sarah S. Ely. The burden is upon the heirs of Sarah S. Ely to prove what such increment, if any, is, and to do so by proper and legal testimony. They have failed to adduce such testimony and to carry the burden imposed on them by law.

Third: Because said commissioner after adopting the



commissioner's assessment books for 1883 as the basis of the property left by Jos. N. Ely adopts the sale bill as the basis of that left by Sarah S. Ely, when the proper way to arrive at the alleged increment *if the assessment is legal evidence* would be to adopt as the basis of the property left by Sarah S. Ely the assessment books of 1900 and give the estate of Jos. N. Ely the benefit of the difference between the assessment of 1900 and the said sale bill.

Orr & Irvine - and -  
Pennington Bros.

on behalf of the defendants for whom they have answered in this cause.



Ely Smythe, Admrs

vs { Exceptions to Am.  
Grins. Comm. Report.

Elizabeth J Pennington  
Attal

in this cause.

Attorneys for whom they have answered  
on behalf of the de-

Pennington Bros. - and -

between the assessment of 1900 and the said sale bill.

Give the estate of John N. My the benefit of the difference

Property left by Sarah S. My the assessment books of 1900 and  
the alleged increment would be to adjust as the basis of the  
of that left by Sarah S. My, when the proper way to arrive at  
property left by John N. My adopts the sale bill as the basis  
commissioner's assessment books for 1895 as the basis of the



Calculations of  
 L. P. Eely's pecunies  
 vs. the estate of A. J. Eely in  
 the case of Smyth & Eely admors  
 vs. E. J. Pennington et al  
 Dec deems of June 3<sup>rd</sup> 1901.

|                     |                                 |         |
|---------------------|---------------------------------|---------|
| Note due 10/11/1888 | 5                               | 50      |
| Int. to 6/11/1901   | 3                               | 80      |
| Note due 10/11/1889 | 25                              | 00      |
| Int. to 6/11/1901   | 17                              | 50      |
| Costs taxed         | 12                              | 30      |
| Total Pecunies      | \$63                            | 60      |
| June 11/01          | br. by Eely & Smyth admors      | 33 60   |
|                     |                                 | \$30 00 |
|                     | br. by Hall & Pennington admors | 30 00   |



L. P. Ely

vs } Calculations

A. J. Ely hires



In the Clerk's Office of the Circuit Court of the County of  
Lee on the 3rd day of April 1901.

against

J. P. Ely

Plaintiff

On Petition filed  
in Chancery Cause  
of Ely & Smyth, Admrs  
vs  
E. J. Pennington et als

Sarah Smyth, Minerva Bowen, Lyde Turner, Hiram  
Ely, George Ann Ely and Jackson Ely Defendant  
Petition

Defendant

The object of this ~~suit~~ is to recover of the estate of A. J. Ely deceased of  
whom the said defendants are heirs, the sum of \$30.00  
due by notes, with interest on \$25.00 part thereof, from  
the 1st day of Oct. 1889. & on \$5.00 the remainder thereof  
from the 10th day of Oct. 1888 till paid & to have said  
debt paid out of the estate of Joseph Ely deceased, in the  
hands of the Court in this Cause, part of which belongs  
to the estate of A. J. Ely

And an affidavit having been made and filed that the defendant & Sarah Smyth, Minerva Bowen  
Lyde Turner, George Ann Ely, Hiram Ely and Jackson Ely are  
not residents of the State of Virginia, it is ordered that They do appear here within fifteen days  
after due publication hereof, and do what may be necessary to protect their interest in this suit. And  
it is further ordered that a copy hereof be published once a week for four weeks in the South-West  
Virginian, and that a copy be posted at the front door of the court-house of this County  
on the first day of the next term of the County Court.

A copy—Teste:

Pennington Bros p. q.

A. B. Munsey Clerk.



J. P. Ely

vs. {

ORDER OF  
PUBLICATION.

Sarah Smyth et als

Virginia Lee County Court.  
I A B Munsey Clerk of  
the Circuit Court for  
Lee County do hereby  
Certify that I posted  
a copy of the within  
order of Publication  
at the front door of  
the Court house of Lee  
County on the first day  
of the <sup>second</sup> County Court of  
said County ~~at the~~  
at the April term 1901  
Issued under my  
hand this the 3rd day  
of June 1901.

A B Munsey Clerk



Pennington Gap, Va. Sept. 6/1901.  
The parties in the suits of  
Smyth & Ely admors. &c vs. E. J.  
Pennington et al, and John Z. and  
Mary P. Ely vs. J. M. Smyth et al  
and now depending in the Cir.  
Court for the County, Va., will take  
notice, that on the 23<sup>rd</sup> day of  
Sept., 1901, and succeeding days  
if necessary, at my office in  
the town of Pennington Gap, Va., I  
will proceed to execute the decree  
rendered in said causes on the 7th day  
of March, 1901, when and where  
they are required to attend with  
such books, papers, vouchers and  
evidence as will enable me to  
comply with the said order of  
the Court.

E. H. Pennington  
Special Comm.



We hereby accept legal service  
of the within for John Z. Ely and  
J. M. Smyth et al. Sept. 6th 1901.  
Perrington Bros.

We hereby accept legal service  
of the within notice for America  
Graham, John H. Perrington et al.  
This Sept 7 1901.

L. T. Duncan & J. L. Noel



J.Morison Smyth and John Z,Ely Adminsitators of the estate:  
of Sarah S.Ely deceased, Plaintiffs, :  
                                against                                 :In Chancery  
Elizabeth J.Pennington,et al., Defendants. :

Elizabeth J. Pennington, Sallie Trent, John M. Smyth, Alexander Smyth, Tennessee  
Smyth, Mary F. Parsons, Manervie O. Bartlett, Sarah M. Greenwood, Mary A. Cary,  
Laura R. parsons, William Smyth, Sarah Cole, Joseph I. Smyth, Sarah J. Parsons,  
Sallie Turner, Fannie Lewis, Lou Anna Caywood, Jane Farley, Louisa King,  
Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargeant, Mary Caywood,  
Jackson Johnson, Sarah Collier, Emily Turner, Vesta Boothe, Gola Johnson,  
Cora Johnson, James M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, Joseph  
Branson, Henry Branson, Sampson Branson, Richard Branson, Louisa Colley,  
Rebecca Maloney, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan  
Parsons, Jasper Parsons, Newton Parsons, Fannie Collier, Isaac Ely, John  
Ely, Hiram Ely, Sarah Smyth, Manervia Bowen, Lyde Turner, Georgia Ann Ely,  
Hiram Ely, Jackson Ely, Emily Munsey, <sup>v</sup> Ellen Fletcher, Emory Gilly, Cynthia  
Myers, Thomas Garrison, Daniel G. Simpson, Manervia Humphrey, Rebecca  
Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, and Cass  
Reasor are not residents of the State of Virginia; and a further affidavit  
having been filed that there are or may be other persons interested in  
said suit but whose names are unknown, and who are the heirs of  
William Smyth deceased, Amanda Howard deceased, Chandler Branson deceased,  
Fannie Howard deceased, Nimrod Branson deceased, Barbary Parsons deceased,  
Oma Hobbs deceased, Emily Moor deceased, Laura Harber deceased and

A copy teste: ARB Mursey clerk



of this county on the first day of the next term of the county court.  
Attest, and that a copy be posted at the front door of the court house  
every period be published once a week for four weeks in the southwest  
corner of the interest in this will. And it is further ordered that a  
day after the publication hereof and do what may be necessary to  
publish this will.

One Hoppe deceased, Emily Root deceased, Laura Harper deceased and

Pauline Howard deceased, Harold Branson deceased, Harberty Branson deceased,

William G. G. deceased, Amanda Howard deceased, Charles Branson deceased

and William Howard deceased are unknown, and who are the heirs of

James Brown and the same are or may be other persons interested in

heir and are not mentioned in the State of Virginia and a further affidavit

person, John Resner, Peter Resner, Emma Resner, Neil Resner, and Cass

Waters, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

Wright, Thomas Garrison, Daniel C. Simpson, Maryville Simpson, Rebecca

J. Morrison Smyth et al. Adm.  
vs } Order of Publication

Elizabeth J. Pennington et al.  
Virginia Lee County to-wit:  
I A.B. Munsey Clerk of  
the circuit court for Lee Co.  
Va do hereby certify that I  
posted a copy of the existing  
order of Publication at the  
front door of the Court-  
house of Lee County, on  
the first day of the  
County Court at the May  
term of said Court.  
Given under my hand  
this the 21st day of May  
1900. A.B. Munsey Clerk

The object of this will is to convey the will of the late Joseph  
Elizabeth J. Pennington, et al.,  
Defendants. In Chancery.

Plaintiffs:  
J. Morrison Smyth and John W. Ely Administrators of the estate of  
on the 24th day of April, 1900.

In the Clerk's Office of the Circuit Court for the County of Lee,



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting :

WE COMMAND YOU THAT YOU SUMMON E. H. Parsons

A. M. Gouin Court at his office in the town of Jonesville Va  
to appear, before the Judge of our Circuit Court of the County of Lee, at the court-house  
thereof, on the 13<sup>th</sup> day of September 1900 ~~1899~~, to testify and the truth to say  
in behalf of the Plaintiffs, in a certain matter of controversy in our said court  
before the said Judge depending and undetermined between J. Morrison Smyth &  
John J. Ely Admins of the estate of Joseph Ely dead Plaintiff, and

Elizabeth J. Pennington et als, Defendant &. And this by her  
shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said court, at the court-house the 13<sup>th</sup> day of  
September 1900 ~~1899~~, and in the 128<sup>th</sup> year of the Commonwealth.

A B Munsey Clerk



*adms.*  
*J. Morrison Smith et als*

vs.

SUBPOENA

FOR

WITNESS.

*Elizabeth J. Pennington et als*

*1*

Court,

the *13<sup>th</sup>* day of *Sept* 1900

~~189~~

*Specified Sept the*  
*13<sup>th</sup> 1900 by summons*  
*and process to appear*  
*at court. General office*  
*the 13<sup>th</sup>*  
*W. J. M. L. H. & C.*



*The Commonwealth of Virginia,*

*To the Sheriff of the County of Lee, Greeting;*

WE COMMAND YOU, That you summon Elizabeth J. Pennington, Sallie Trent, John M. Smyth, Alexander Smyth, Tennessee Smyth, Rebecca J. Travis, J. T. Smyth, Mary F. Parsons, Nervie O. Bartlett, Wm. Smyth, Martha Quillen, Emily Lucas, Sarah Tharp, Sarah M. Greenwood, John M. Smyth, Jr., James D. Smyth, Elbert M. Smyth, Mary J. Parsons, Mary A. Cary, David W. Smyth, Donie E. Olinger, Charles Smyth, Laura R. Parsons, Luther S. Turner, Wm. E. Turner, Wm. Smyth, Sarah Cole, Joseph L. Smyth, unknown heirs of Amanda Howard deceased, Sarah J. Parsons, John A. Orr, W. T. Orr, Emily Newman, Peter H. Orr, Dollie Pugh, Sallie Turner, Fannie Lewis, Louannie Caywood, Jane Farley, Louisa King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargeant, Mary Caywood, T. P. Smith, Sarah E. Cooney, Mary Carter, Joseph Johnson, John Johnson, Jackson Johnson, Mary Robbins, Sarah Collier, Emily Turner, Vesta Boothe, Gola Johnson, Cora Johnson, Fannie Johnson, Mollie Hughes, Rebecca Johnson, ..... Johnson, Tennessee Smyth, Rebecca Olinger, America Bailey, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, Jas. M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, Emmet Short, Sherman Parsons, George Parsons, Mary Doss, Sarah Mullins, Joseph Branson, Henry Branson, Sampson Branson, Sallie Parsons, Richard Branson, Louisa Colley, the unknown heirs of Chandler Branson deceased, the unknown heirs of Fannie Howard deceased, the unknown heirs of Nimrod Branson deed., Loucinda Parsons, Rebecca Maloney, H. C. Bailey, John M. Bailey, Sallie Cecil, Jane Barker, Lettie Shufflebarger, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons, Jasper Parsons, Newton Parsons, D. S. Reasor, Jackson Reasor, Wallace Reasor, J. Green Reasor, Amanda Olinger, the unknown heirs of Oma Hobbs deceased, Fannie Collier, J. Porter Ely, Isaac Ely, John Ely, George Ely, H. H. Ely, J. E. Smith, Floyd Stewart, James A. Stewart, Simpson Stewart, Lillie Stewart, Emmet Stewart, Ballard Stewart, Laura Stewart, the unknown heirs of Emily Moore deceased, I. P. Ely, W. S. Ely, Hiram Ely, Amanda Ely, John B. Ely, Charles Ely, Leonard Ely, Maud Ely, Sarah Ely, Dora Ely, Crockett Ely, Hiram Ely, the unknown heirs of Laura Harber deceased, the unknown heirs of Elkanah Ely deceased, Sarah Smyth, Minerva Bowen, Lyde Turner, Georgia Ann Ely, Hiram Ely, Jackson Ely, Emmet Ely, D. R. Ely, Rosa Robbins, Octa Smith, Marion Ely, Palestine Ely, Rebecca Weston, Emily Muncy, Eva Fletcher, Susan Young, John M. Howard, Eva J. Skaggs, Octa E. Johnson, Emory Gilley, Cornie Parks, Creed Gilley, Annis Litton, Tip Gilley, Gale Gilley, Rebecca Cecil, Mary Cox, C. D. Bailey, Amanda Hughes, Sarah Myers, America Graham, Mary P. Ely, Cynthia Myers, John H. Pennington, Sarah E. Myers, Thomas Garrison, Daniel G. Simpson, Minerva Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, Cass Reasor, John Z. Ely, *Nancy Stanley*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for said Court, on the 3rd Monday in May, 1900, to answer a bill in Chancery exhibited against them in our said Court by John Z. Ely and J. Morison Smyth Administrators of the estate of Sallie S. Ely deceased.

And have then there this writ. Witness A. B. MUNSEY Clerk of our said Court, at the Court-house, the 23rd day of April, 1900, and in the 124th year of the Commonwealth.

*A. B. Munsey* CLERK.



John Z Ely & Mary P Ely

Virginia Lee County to-wit

This day personally appeared before me A.B. Munsey Clerk of the Circuit Court James Myes and made oath that he on the 19th day of May 1900 delivered an attested office copy of the within Spa in Chay to Rebecca Weston & Sarah Cooney.

Given under my hand this the 4th day of June 1900.

A.B. Munsey Clerk

Executed may the 15th 1900  
by delivering an attested office  
copy of the within Spa in Chay  
to Anna Smith & Rebecca Brown.  
W. J. McKeahan J.C.



CERTIFICATE OF  
ORDER OF PUBLICATION.

I, A. M. Goins, Editor of the SOUTH-  
WEST VIRGINIAN, a weekly newspa-  
per published at Jonesville, Lee County,  
Va., do hereby certify that the annex-  
ed notice was published in said paper  
once a week for four successive weeks,  
commencing on the 11<sup>th</sup> day of

April, 1901.

A. M. Goins, EDITOR.

FEE, \$8.00

Order Of Publication.

VIRGINIA—In the Clerk's Office of the  
Circuit Court of the County of Lee on  
the 3rd day of April, 1901.

I. P. ELY, Plaintiff,  
against

Sarah Smyth, Minerva Bowen, Lyde  
Turner, Hiram Ely, George Ann  
Ely and Jackson Ely, Defendants.

[On petition filed in chancery cause of  
Ely & Smith admsrs. vs. E. J.  
Pennington et als.]

The object of this petition is to recover  
of the estate of A. J. Ely deceased of  
whom the said defendants are heirs, the  
sum of \$30.00 due by notes, with interest  
on \$25, part thereof, from the 1st day of  
October, 1889, till paid, and on \$5, the re-  
mainder thereof, from the 10th day of Oct.  
1888, till paid, and to have said debt paid  
out of the estate of Joseph Ely deceased  
in the hands of the court in this cause part  
of which belongs to the estate of the said  
A. J. Ely.

And an affidavit having been made and  
filed that the defendants Sarah Smyth,  
Minerva Bowen, Lyde Turner, George Ann  
Ely, Hiram Ely and Jackson Ely are not  
residents of the State of  
Virginia, it is ordered that they do appear  
here within fifteen days after due publica-  
tion hereof, and do what may be necessary  
to protect their interest in this suit. And  
it is further ordered that a copy hereof be  
published once a week for four weeks in  
the Southwest Virginian, and that a copy  
be posted at the front door of the court-  
house of this County on the first day of the  
next term of the County Court.

A copy—Teste:

A. B. MUNSEY, Clerk.

Pennington Bros, p. q.

Apr114t01



ORDER OF PUBLICATION.

J. P. Ely, Plff.

VS.

IN CHANCERY.

Sarah Smith et al., Defs

FEE

\$8 00



**CERTIFICATE OF  
ORDER OF PUBLICATION.**

I, A. M. Goins, Editor of the **SOUTH-  
WEST VIRGINIAN**, a weekly newspa-  
per published at Jonesville, Lee County,  
Va., do hereby certify that the annex-  
ed notice was published in said paper  
once a week for four successive weeks,

commencing on the 26<sup>th</sup> day of

April, 1900.

A. M. Goins, EDITOR.

FEE, \$14.80

**VIRGINIA**—In the Clerk's Office of the  
Circuit Court of the County of Lee on  
the 24th day of April, 1900.

J. Morison Smyth and John Z. Ely,  
Administrators of the Estate of  
Sarah S. Ely, deceased, Plaintiffs.

against

Elizabeth J. Pennington, et al., D'f'ts.

IN CHANCERY.

The object of this suit is to construe the  
will of the late Joseph N. Ely and to de-  
termine to whom the plaintiffs as adminis-  
trators of the estate of the said Sarah S.  
Ely, deed., should pay the funds in their  
hands which was devised to the said Sarah  
S. Ely by the will of Joseph N. Ely, or  
acquired by the said Sarah S. Ely in any  
other way, which has come or may come  
into the hands of said Admrs., and to have  
a commissioner ascertain the amount to  
which each of the parties in interest are  
entitled.

And an affidavit having been made and  
filed that the defendants, Elizabeth J.  
Pennington, Sallie Trent, John M. Smyth,  
Alexander Smyth, Tennessee Smyth, Mary  
F. Parsons, Minerva O. Bartlet, Sarah M.  
Greenwood, Mary A. Cary, Laura R. Par-  
sons, Sallie Turner, Fannie Lewis, Lou  
Anna Caywood, Jane Farley, Louisa King,  
Rachel Doss, Emily Maupin, Bettie Crider  
Grant Sargeant, Mary Caywood, Jackson  
Johnson, Sarah Collier, Emily Turner,  
Vesta Boothe, Gola Johnson, Cora John-  
son, James M. Smyth, Cora Smyth, Jack-  
son Smyth, David Smyth, Joseph Branson  
Henry Branson, Sampson Branson, Rich-  
ard Branson, Louisa Colley, Rebeca Ma-  
loney, P. C. Flanary, Francis Maxwell,  
William Smyth, Sarah Cole, Jos. I. Smyth,  
Sarah J. Parsons,

Elizabeth Parsons, Susan Parsons, Jasper  
Parsons, Newton Parsons, Fannie Collier,  
Isaac Ely, John Ely, Hiram Ely, Sarah  
Smyth, Manervia Bowen, Lyde Turner,  
Georgia Ann Ely, Hiram Ely, Jackson Ely  
Emily Munsey, Eviline Fletcher, Emory  
Gilly, Cynthia Myers, Thomas Garrison,  
Daniel G. Simpson, Manervia Humphrey,  
Rebecca Barron, John Reasor, Peter Rea-  
sor, Fannie Reasor, Bell Reasor, and Cass  
Reasor not residents of the State of Vir-  
ginia; and a further affidavit having been  
filed that there are or may be other persons  
interested in said suit but whose names  
are unknown, and who are the heirs of  
William Smyth, deceased, Amanda How-  
ard deceased, Chandler Branson deceased  
Fannie Howard deceased, Nimrod Bran-  
son deceased, Barbary Parsons deceased,  
Oma Hobbs deceased, Emily Moore deed.,  
Laura Harber deed. and Elcanah Ely deed.  
it is ordred that they do appear here within  
fifteen days after due publication hereof  
and do what may be necessary to protect  
their interest in this suit. And it is further  
ordered that a copy hereof, be published  
once a week for four weeks in the South-  
west Virginian, and that a copy be posted  
at the front door of the court-house of this  
county on the first day of the next term of  
the County Court.

A copy—Teste:

A. B. MUNSEY, Clerk.

Pennington Bros. p. q.

4-26-00-46



ORDER OF PUBLICATION.

J. Morrison Smith & John Z Ely, Attorneys

VS.

IN CHANCERY.

Elizabeth J Pennington et al

---

FEE \$14.80



*The Commonwealth of Virginia,  
To the Sheriff of the County of Lee, Greeting;*

WE COMMAND YOU, That you summon Elizabeth J. Pennington, Sallie Trent, John M. Smyth, Alexander Smyth, Tennessee Smyth, Rebecca J. Travis, J. T. Smyth, Mary F. Parsons, Nervie O. Bartlett, Wm. Smyth, Martha Quillen, Emily Lucas, Sarah Tharp, Sarah M. Greenwood, John M. Smyth, Jr., James D. Smyth, Elbert M. Smyth, Mary J. Parsons, Mary A. Cary, David W. Smyth, Donie E. Olinger, Charles Smyth, Laura R. Parsons, Luther S. Turner, Wm. E. Turner, Wm. Smyth, Sarah Cole, Joseph L. Smyth, unknown heirs of Amanda Howard deceased, Sarah J. Parsons, John A. Orr, W. T. Orr, Emily Newman, Peter H. Orr, Dollie Pugh, Sallie Turner, Fannie Lewis, Louannie Caywood, Jane Farley, Louisa King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargeant, Mary Caywood, T. P. Smith, Sarah E. Cooney, Mary Carter, Joseph Johnson, John Johnson, Jackson Johnson, Mary Robbins, Sarah Collier, Emily Turner, Vesta Bootlie, Gola Johnson, Cora Johnson, Fannie Johnson, Mollie Hughes, Rebecca Johnson, ..... Johnson, Tennessee Smyth, Rebecca Olinger, America Bailey, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, Jas. M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, Emmet Short, Sherman Parsons, George Parsons, Mary Doss, Sarah Mullins, Joseph Branson, Henry Branson, Sampson Branson, Sallie Parsons, Richard Branson, Louisa Colley, the unknown heirs of Chandler Branson deceased, the unknown heirs of Fannie Howard deceased, the unknown heirs of Nimrod Branson decd., Loucinda Parsons, Rebecca Maloney, H. C. Bailey, John M. Bailey, Sallie Cecil, Jane Barker, Lettie Shufflebarger, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons, Jasper Parsons, Newton Parsons, D. S. Reasor, Jackson Reasor, Wallace Reasor, J. Green Reasor, Amanda Olinger, the unknown heirs of Oma Hobbs deceased, Fannie Collier, J. Porter Ely, Isaac Ely, John Ely, George Ely, H. H. Ely, J. E. Smith, Floyd Stewart, James A. Stewart, Simpson Stewart, Lillie Stewart, Emmet Stewart, Ballard Stewart, Laura Stewart, the unknown heirs of Emily Moore deceased, I. P. Ely, W. S. Ely, Hiram Ely, Amanda Ely, John B. Ely, Charles Ely, Leonard Ely, Maud Ely, Sarah Ely, Dora Ely, Crockett Ely, Hiram Ely, the unknown heirs of Laura Harber deceased, the unknown heirs of Elkanah Ely deceased, Sarah Smyth, Minerva Bowen, Lyde Turner, Georgia Ann Ely, Hiram Ely, Jackson Ely, Emmet Ely, D. R. Ely, Rosa Robbins, Octa Smith, Marion Ely, Palestine Ely, Rebecca Weston, Emily Muncy, Eva Fletcher, Susan Young, John M. Howard, Eva J. Skaggs, Octa E. Johnson, Emory Gilley, Cornie Parks, Creed Gilley, Annis Litton, Tip Gilley, Gale Gilley, Rebecca Cecil, Mary Cox, C. D. Bailey, Amanda Hughes, Sarah Myers, America Graham, Mary P. Ely, Cynthia Myers, John H. Pennington, Sarah E. Myers, Thomas Garrison, Daniel G. Simpson, Minerva Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, Cass Reasor, J. Morison Smyth, + *Harvey Stanley*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for said Court, on the 3rd Monday in May, 1900, to answer a bill in Chancery exhibited against them in our said Court by John Z. Ely and Mary P. Ely, Plaintiffs.

And have then there this writ. Witness A. B. MUNSEY Clerk of our said Court, at the Court-house, the 3rd day of April, 1900, and in the 124th year of the Commonwealth.

*A. B. Munsey* CLERK.



J. Z. Ely & J. Morrison <sup>Admr</sup> Smith

---

Virginia Lee County to-wit;  
This day personally appeared before  
me A. B. Munsey <sup>James Myers</sup> Clerk of the Circuit  
Court for Lee County and made oath  
that he delivered a copy of the within  
Spec in Chancery to Rebecca Weston  
& Sarah Cooney on the 19<sup>th</sup> day of  
May 1900.

Given under my hand this the 24<sup>th</sup>  
day of June 1900. A. B. Munsey Clerk

---

Executed May the 15<sup>th</sup> 1900  
by Delivering a copy of the  
W<sup>ith</sup> in Super in Chancery to  
Mr Smith & Rebecca J. Traves.  
W. J. Mileham S. L. C.



*The Commonwealth of Virginia,*

*To the Sheriff of the County of Lee, Greeting:*

WE COMMAND YOU, That you summon Elizabeth J. Pennington, Sallie Trent, John M. Smyth, Alexander Smyth, Tennessee Smyth, Rebecca J. Travis, J. T. Smyth, Mary F. Parsons, Nervie O. Bartlett, Wm. Smyth, Martha Quillen, Emily Lucas, Sarah Tharp, Sarah M. Greenwood, John M. Smyth, Jr., James D. Smyth, Elbert M. Smyth, Mary J. Parsons, Mary A. Cary, David W. Smyth, Donie E. Olinger, Charles Smyth, Laura R. Parsons, Luther S. Turner, Wm. E. Turner, Wm. Smyth, Sarah Cole, Joseph L. Smyth, unknown heirs of Amanda Howard deceased, Sarah J. Parsons, John A. Orr, W. T. Orr, Emily Newman, Peter H. Orr, Dollie Pugh, Sallie Turner, Fannie Lewis, Louannie Caywood, Jane Farley, Louisa King, Rachel Doss, Emily Maupin, Bettie Crider, Grant Sargeant, Mary Caywood, T. P. Smith, Sarah E. Cooney, Mary Carter, Joseph Johnson, John Johnson, Jackson Johnson, Mary Robbins, Sarah Collier, Emily Turner, Vesta Boothe, Gola Johnson, Cora Johnson, Fannie Johnson, Mollie Hughes, Rebecca Johnson, ..... Johnson, Tennessee Smyth, Rebecca Olinger, America Bailey, Emmet Smyth, Fannie Smyth, Flora Smyth, Joseph Smyth, Jas. M. Smyth, Cora Smyth, Jackson Smyth, David Smyth, Emmet Short, Sherman Parsons, George Parsons, Mary Doss, Sarah Mullins, Joseph Branson, Henry Branson, Sampson Branson, Sallie Parsons, Richard Branson, Louisa Colley, the unknown heirs of Chandler Branson deceased, the unknown heirs of Fannie Howard deceased, the unknown heirs of Nimrod Branson decd., Loucinda Parsons, Rebecca Maloney, H. C. Bailey, John M. Bailey, Sallie Cecil, Jane Barker, Lettie Shuffebarger, P. C. Flanary, Francis Maxwell, Elizabeth Parsons, Susan Parsons, Jasper Parsons, Newton Parsons, D. S. Reasor, Jackson Reasor, Wallace Reasor, J. Green Reasor, Amanda Olinger, the unknown heirs of Oma Hobbs deceased, Fannie Collier, J. Porter Ely, Isaac Ely, John Ely, George Ely, H. H. Ely, J. E. Smith, Floyd Stewart, James A. Stewart, Simpson Stewart, Lillie Stewart, Emmet Stewart, Ballard Stewart, Laura Stewart, the unknown heirs of Emily Moore deceased, I. P. Ely, W. S. Ely, Hiram Ely, Amanda Ely, John B. Ely, Charles Ely, Leonard Ely, Maud Ely, Sarah Ely, Dora Ely, Crockett Ely, Hiram Ely, the unknown heirs of Laura Harber deceased, the unknown heirs of Elkanah Ely deceased, Sarah Smyth, Minerva Bowen, Lyde Turner, Georgia Ann Ely, Hiram Ely, Jackson Ely, Emmet Ely, D. R. Ely, Rosa Robbins, Octa Smith, Marion Ely, Palestine Ely, Rebecca Weston, Emily Muney, Eva Fletcher, Susan Young, John M. Howard, Eva J. Skaggs, Octa E. Johnson, Emory Gilley, Cornie Parks, Creed Gilley, Annis Litton, Tip Gilley, Gale Gilley, Rebecca Cecil, Mary Cox, C. D. Bailey, Amanda Hughes, Sarah Myers, America Graham, Mary P. Ely, Cynthia Myers, John H. Pennington, Sarah E. Myers, Thomas Garrison, Daniel G. Simpson, Minerva Humphrey, Rebecca Barron, John Reasor, Peter Reasor, Fannie Reasor, Bell Reasor, Cass Reasor, J. Morison Smyth, *Nancy Stanley*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for said Court, on the 3rd Monday in May, 1900, to answer a bill in Chancery exhibited against them in our said Court by John Z. Ely and Mary P. Ely, Plaintiffs.

And have then there this writ. Witness A. B. MUNSEY Clerk of our said Court, at the Court-house, the 23rd day of April, 1900, and in the 124th year of the Commonwealth.

*A. B. Munsey* CLERK.



Executed on the 12<sup>th</sup> day of  
May, 1900 by delivering three  
copies of the within summons  
to the following persons, to-wit:  
J. S. Smith, Martha Quinn,  
Emily Sweet, Sarah Sharp,  
John W. Bunch Jr., James T. Bunch  
Albert W. Bunch, Mary J. Parsons  
David W. Bunch, Sonie E. Clinger,  
Charles Bunch, John A. Orr, H. S. Orr  
Emily Newman, Peter W. Orr, Sally  
Pugh, F. P. Smith, Mary Carter,  
Joseph Johnson, John Johnson,  
Mary Robbins, Tennessee Smith  
Sarah Mullins Rebecca Clinger  
America Bailey Lucinda Parsons  
H. C. Bailey John W. Bailey L. D. Bailey  
Sallie Cecil Jane Barker Lettie Shuffelbarger  
D. S. Reaser Wallace Reaser Green Reaser  
Jackson Reaser Amanda Clinger J. Porter Ely  
George Ely H. H. Ely J. E. Smith Floyd  
Stewart James A. Stewart Simon Stewart  
Lilly Stewart W. S. Ely Niram Ely  
Amanda Ely John B. Ely Charles Ely  
Emmet Ely F. R. Ely Rosa Robbins Susan  
Young Eva F. Shaggs Ceta E. Johnston  
Cornie Parks Creed Gilley Rebecca Cecil  
Mary Cox John J. Ely Amanda Hughes  
Sarah Myers America Graham  
Mary P. Ely John H. Pennington Sarah -  
E. Myers Sallie Parsons Ceta Smith  
Sarah Collier Francis Maxwell  
J. Morison Smith by J. P. Ely Sept  
for W. J. Mullen & L. L.



The Commonwealth of Virginia:

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon James Spangler  
to appear at the law office of A. M. Gains,  
in the town of Jonesville, Virginia, on Tuesday,  
Sept. 11, 1900, to testify and the truth to say in a  
certain suit in chancery in the Circuit Court,  
and now pending before me as Special Com-  
missioner, in which John Z. Ely & J. M. Smythe, Adverses  
are plaintiffs, and Elizabeth J. Pennington et als, are  
defendants

to appear before our County Court for the County of Lee at the court house, on the \_\_\_\_\_ day of \_\_\_\_\_

189 \_\_\_\_\_ to testify and the truth to say before the Grand Jury then to be in session.  
And this ~~they~~<sup>he</sup> shall in no wise omit under the penalty of \$100. And have then there this writ.

Witness, S. V. E. RICHMOND, Clerk of our said County Court this 11<sup>th</sup> day of Sept. 1900  
in the 12<sup>th</sup> year of the Commonwealth.

A. M. Gains Clerk.

Special Commissioner



SUBPOENA FOR WITNESSES

*Before Special Court,*  
~~BEFORE GRAND JURY.~~

To 11<sup>th</sup> Day of Sept.

1890.

*Granted Sept*  
*11th 1900 by JAMES*  
*in James Sheaffer*  
*W. J. Milburn*

*20 cts*



The Commonwealth of Virginia,

To the Sheriff of Lee County—Greeting:

WE COMMAND YOU, That you summon

*Mrs. J. J. Ely, f*

to

*me at my office in Jonesville in Gill County*

to appear before the Judge of our County Court of Lee county, at the court-house, on

the *11* day of *September 1900* 189, to answer an indictment of the Grand Jury

made against ~~\_\_\_\_\_~~ on the ~~\_\_\_\_\_~~ day of ~~\_\_\_\_\_~~ 189, for

~~to testify and the truth to speak~~ *before me*  
~~a Special Commissioner of the Circuit Court of Lee County~~  
*in behalf of America Graham et al, in the case*  
*of J. J. Ely and J. M. Smyth Admrs etc. vs Elizabeth*  
*Pennington et al in reference to an account in*  
*said case now being taken* ~~before me, as said commissioner~~

And have then there this writ.

Witness, S. V. F. RICHMOND, Clerk of our said Court, at the court-house, this

*hand this 10 day of Sept. 1900*

day of

189

, in the

year of the Commonwealth.

*A. M. Lewis,*

*Special Commr,*



*Subpoena for Witness*  
Commonwealth

*Before*

*Spe. Co.*

*vs.*

SUMMONS TO ANSWER

~~AN~~

INDICTMENT.

To ..... Term

Court.

189.....

*Executed Sept*  
*10th by*  
*messrs. J. C. &*  
*W. J. Sullivan*

*20 cts*



John Z.Ely and Mary P.Ely,  
against  
J.Morison Smith et al,

Plaintiffs:                   :  
                                  :  
Defendants :                   In Chancery

And an affidavit having been made and filed that the defendants

Elkanah Ely deceased, it is ordered that they do appear here within 15 days after due publications hereof and do what may be necessary to protect their interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the Southwest Virginian, and that a copy be posted at the front door of the court house of this county on the first day of the next term of the county court.

A copy teste:

A copy teste:  
Pennycott Bros. P.Q. A.B. Mursey clerk



John Z Ely et al

VS } Order of Publication

J Morison Smyth et als

Virginia Lee County Co-suit;  
I A.B. Munsey Clerk of the  
Circuit Court for Lee County  
Va. do hereby certify that  
I posted a copy of the within  
order of Publication at the  
front door of the Court-  
house on the 1st day of  
the May term of County  
Court for Lee County.

Given under my hand this  
the 21st May 1900.

A.B. Munsey Clerk

and the proceeds of said divided between said heirs according to their  
proportions but it not practicable to have the same sold according to  
and Joseph N. Ely decd., among the lawful heirs of both said parties it

The object of this suit is partition the lands of Sarah S. Ely deceased

J. Morison Smyth et al,

against

John N. Ely and Mary P. Ely,

Defendants:

Plaintiffs: In Chancery

The 24th day of April, 1900.

In the Clerk's Office of the Circuit Court for the County of Lee on



CERTIFICATE OF  
ORDER OF PUBLICATION.

I, A. M. Goins, Editor of the SOUTH-  
WEST VIRGINIAN, a weekly newspa-  
per published at Jonesville, Lee County,  
Va., do hereby certify that the annex-  
ed notice was published in said paper  
once a week for four successive weeks,  
commencing on the 26<sup>th</sup> day of

*April*, 1900.

*A. M. Goins*, EDITOR.

FEE, \$13.60

VIRGINIA—In the Clerk's Office of the  
Circuit Court of the County of Lee on  
the 24th day of April, 1900.

John Z. Ely and Mary P. Ely, Pl't's.  
against

J. Morison Smyth et al, Defendants.

IN CHANCERY.

The object of this suit is to partition the  
lands of Sarah S. Ely deceased and Joseph  
N. Ely deceased, among the lawful heirs  
of both said parties if practicable but if not  
practicable to have the same sold accord-  
ing to law and the proceeds of sale di-  
vided between said heirs according to their  
respective interest as shall be determined  
by the court.

And an affidavit having been made and  
filed that the defendants, Elizabeth J. Pen-  
nington, Sallie Trent, John M. Smyth,  
Alexander Smyth, Tennessee Smyth, Mary  
F. Parsons, Manervia O. Bartlett, Sarah  
M. Greenwood, Mory A. Cary, Laura R.  
Parsons, William Smyth, Sarah Cole, Jos.  
I. Smythe, Sarah J. Parsons, Sallie Turner  
Fannie Lewis, Lou Anna Caywood, Jane  
Farley, Louisa King, Rachel Doss, Emily  
Maupin, Bettie Orider, Grant Sergeant,  
Mary Caywood, Jackson Johnson, Sarah  
Collier, Emily Turner, Vesta Boothe, Gola  
Johnson, Cora Johnson, James M. Smyth,  
Cora Smyth, Jackson Smyth, David Smyth  
Joseph Branson, Henry Branson, Sampson  
Branson, Richard Branson, Louisa Colley,  
Rebecca Maloney, P. C. Flanary, Francis  
Maxwell, Elizabeth Parsons, Susan Par-  
sons, Jasper Parsons, Newton Parsons,  
Fannie Collier, Isaac Ely, John Ely, Hi-  
ram Ely, Sarah Smyth, Manervia Bowen,  
Lyde Turner, Georgia Ann Ely, Hiram  
Ely, Jackson Ely, Emily Munsey, Eviline  
Fletcher, Emory Gilly, Cynthia Myers,  
Thomas Garrison, Daniel G. Simpson, Ma-  
nervia Humphrey, Rebecca Barron, John  
Reasor, Peter Reasor, Fannie Reasor, Bell  
Reasor, and Coss Reasor are not residents  
of the State of Virginia; and a further  
affidavit having been filed that there are  
or may be other persons interested in said  
suit but whose names are unknown, and  
who are the heirs of William Smyth deed.,  
Amanda Howard deceased, Chandler Bran-  
son deceased, Fannie Howard deceased,  
Nimrod Branson deceased, Barbary Par-  
sons deceased, Oma Hobbs deceased, Em-  
ily Moor deceased, Laura Harber deed.,  
and Elkanah Ely deceased, it

is ordered that they do appear here within  
fifteen days after due publication hereof,  
and do what may be necessary to protect  
their interest in this suit. And it is further  
ordered that a copy hereof, be published  
once a week for four weeks in the South-  
west Virginian, and that a copy be posted  
at the front door of the court-house of this  
County on the first day of the next term of  
the County Court. A copy—Teste:

A. B. MUNTEY, Clerk.

Pennington Bros. p. q. 4-26-00-4t.



ORDER OF PUBLICATION.

*John J. Ely & Mary P. Ely*

VS.

IN CHANCERY.

*J. Morrison Smith et al*

---

FEE \$13.60



Nov 23 1900

Peffo Costs

Clerk 19.06

Tax 1.50

Shff 46.40 Pd

Atty 15.00 Pd

Guard ad litem 5.00

Printer 24.80

Comm 50.00

County C 6.80

Baker J P 7.50

Witnesses 7.50

Estimated 10.00

193.56

Peffo Costs

Clerk 19.06

Tax 1.50

Shff 46.40

Atty 15.00

Guard 5.00

Printer 24.80

Comm 50.00

Co Clerk 6.80

J P 7.50

Witnesses 7.50

Estimated 10.00

193.56

Wm. J. Baker

W. Baker

Wm. J. Baker



J. J. & Mary P. Kelly

vs { Bill in Chanc.

J. M. Smyth et al

Office Costs 20.45  
for 1.50  
Shiff 46.00  
q. 15.00  
by J. J. 5.00  
Printer 13.60  
Estimate 10.00  
\$111.55  
9.20  
Dr. J. J. 120.75